



SUPERVISOR'S

GUIDE

TO

EMPLOYEE RELATIONS

November 2006

I. <u>Use of the Guide</u>	pg. 3
II. <u>Responsibility of Supervisors</u>	pg. 4
III. <u>Supervisors' Tools</u>	pg. 5
A. Orientation	pg. 5
B. Training	pg. 5
C. Staff Meetings	pg. 5
D. Counseling and Documentation	pg. 6
E. Formal Disciplinary Actions	pg. 6
IV. <u>Progressive Disciplinary Guidelines</u>	pg. 7
A. Verbal Counseling and Instruction.....	pg. 7
B. Written Memos	pg. 7
C. Letter of Reprimand.....	pg. 8
D. Formal Disciplinary Action	pg. 8
E. Factors to Consider	pg. 9
V. <u>Formal Disciplinary Action</u>	pg. 10
A. Probationary Employee/Trainee (Non-Regular Status)	pg. 10
B. Regular Status Employees	pg. 11
1. Just Cause	pg. 11
2. Types of Actions.....	pg. 12
3. Notice of Proposed Action.....	pg. 12
4. Limitation and Exceptions to Written Notice	pg. 13
5. Skelly-Due Process Rights.....	pg. 14
6. Order of Disciplinary Action.....	pg. 14
7. Hearing	pg. 15
8. Short-Term Suspension without Written Notice	pg. 15
VI. <u>Administrative Leave</u>	pg. 17
VII. <u>Attendance and Leave</u>	pg. 18
A. Attendance Control/Analysis	pg. 18
B. Protected Leave	pg. 18
C. Granting Appropriate Time (Approved & Unauthorized)	pg. 19
D. Attendance and the Disciplinary Process	pg. 20
E. Leave Restriction.....	pg. 21
F. Failure to Return/ Automatic Resignation	pg. 21
G. Tardiness.....	pg. 22

VIII. <u>Work Performance Evaluation (WPE)</u>	pg. 24
A. Types.....	pg. 24
B. Position Standards	pg. 25
C. Preparing the W.P.E.....	pg. 27
1. Layout.....	pg. 27
2. Justification.....	pg. 27
3. Performance Ratings	pg. 28
4. Including Disciplinary Actions	pg. 29
D. Evaluation Meeting	pg. 29
E. Performance vs. Misconduct	pg. 30
F. Appeals and Rebuttals	pg. 30
IX. <u>Work Performance Improvement Plan (WPIP)</u>	pg. 31
X. <u>Communication</u>	pg. 33
XI. <u>Resources</u>	pg. 34
A. HRO	pg. 34
B. MOU	pg. 34
C. County Personnel Rules.....	pg. 35
D. Policy Manual	pg. 35
E. HR Website	pg. 35
F. Department Resources.....	pg. 35
<u>Attachment List</u>	pg. 36
#1. Orientation Checklist	
#2. Record of Discussion	
#3. Memo of Concern	
#4. Memo of Instruction	
#5. Letter of Reprimand	
#6. Notice of Proposed Disciplinary Action	
#7. Order of Disciplinary Action	
#8. Order of Suspension – Short Term No Written Notice	
#9. Administrative Leave (ERL) Letter	
#10. Request for Extended Sick & Special Leave (RESSL)	
#11. FMLA/CFR Timeline Chart	
#12. Leave Analysis	
#13. Notice of Excessive Sick Leave Memo	
#14. Leave Restriction Plan	
#15. WPE “Employee Refuses to Sign”	

#16. Work Performance Improvement Plan
#17. WPIP Progress Report

Frequently Asked Questions

I. **USE OF THE GUIDE**

This guide is designed to assist supervisors in carrying out their responsibilities in regard to employee counseling, documentation, leave administration, assessing job performance, and disciplinary actions in a consistent, equitable, and logical manner.

This guide encourages supervisory/employee communication and documentation of positive as well as negative performance. It is intended to assist the supervisor in responding to the first indication of an employee's unsatisfactory performance and/or misconduct. The guide describes each progressive step in the process and how and when to use them. As with any guide, it must be used with flexibility. Every situation is different and each step of the guide may not be appropriate.

The County uses "Progressive Discipline," an approach in which each action taken is progressively more severe than the preceding one. It is based on the premise that honest, straight forward communication, both verbal and written, is essential in the supervisor-employee relationship, and that discipline is a natural consequence of the employee's failure to meet standards and expectations despite prior training, instructions, counseling and/or warnings. To be effective, discipline should be constructive and corrective.

No formal disciplinary action should be initiated without first consulting with the Human Resources Officer (HRO). The progressive discipline guidelines may differ for classifications covered by the Peace Officer Bill of Rights or other legislative codes.

II. RESPONSIBILITY OF SUPERVISORS

The supervisor's primary role is to help employees succeed on the job by:

1. Providing clear and concise expectations
2. Providing on-going training and counseling
3. Consistently and fairly enforcing policy and procedure
4. Objectively monitoring work performance
5. Maintaining a safe and productive work environment

Communication is a key component of effective supervision. Supervisors should clearly communicate management needs, expectations, and performance standards on a regular basis. As a supervisor, it is important that you are familiar with the departmental operations, policies, rules, and procedures and understand the impact--not just the "what," but the "why." Be open to questions and discussion. Think about questions that employees may ask and how to answer them (or know where to obtain the information).

Every supervisor would like each employee to meet performance standards and expectations and to follow work rules and procedures. Unfortunately, the employee does not always know what those standards, expectations, rules, and procedures are or how to meet them. It is the supervisor's responsibility to communicate these things to the employee.

It is essential for supervisors to provide continual training and assistance to their employees, both probationary and regular, and resolve problems as they arise. Disciplinary action can more easily be avoided if a problem is identified and acted upon early. For instance, the supervisor may provide clarification, further instruction or counseling to the employee at the onset of a problem. Please keep in mind that the Human Resources Officer assigned to the Department should be consulted about any problem which may lead to disciplinary action well before such action is initiated.

It must be emphasized that the role of the supervisor is not only to let employees know of unsatisfactory performance and unacceptable behavior, but equally important, to advise employees on an ongoing basis of the positive aspects of their performance; consistently providing the employee feedback;

recognizing desirable or improved performance; and actively listening to the employee's input, questions, or concerns.

III. SUPERVISOR'S TOOLS

A. Orientation

The supervisor should provide orientation to all new staff members. Generally, this should include a review of the following:

- Relevant policies and procedures
- Position description
- Job duties
- Position Standards
- Work performance expectations

The supervisor should provide copies of relevant written materials for the employee's review, and then meet with the employee as soon as possible to go over the material, answer questions and ensure there is an understanding of the requirements, procedures, standards, and expectations.

The supervisor should have an orientation checklist, which includes a place for both the employee and supervisor to initial each topic or policy once it has been discussed (**See Attachment #1**). Additionally, the supervisor should encourage the employee to ask questions as they arise.

B. Training

One of the primary responsibilities of the supervisor is to train staff both initially, and equally important, throughout their employment. During the training, it is important to offer an opportunity for the employee to ask questions. It is equally important to review work performance and monitor progress on a regular basis, especially during the probationary period. Corrective feedback should be provided immediately, and any training provided should be documented on a log or calendar.

C. Staff Meetings

In some work environments, periodic staff meetings may be the only time supervisors and employees are able to communicate and build relationships. The supervisor should discuss new/revised policies, procedures, methods, priorities, etc., and encourage staff to provide input and ask questions. It is recommended and wise to prepare an agenda of topics to be covered and have staff sign-in. If possible, minutes should be prepared and reviewed by staff to validate their accuracy. Copies of agendas, sign-in sheets, minutes, and all relevant written material covered should be maintained for at least 3 years or longer if required. These are helpful if a supervisor is called upon in the future to validate that an employee had received a specific instruction or policy.

D. Counseling and Documentation

Supervisors should keep a working personnel file for each employee, including previous evaluations, work reviews, memos of counseling, work performance expectations, commendations, etc., anything that would be used to evaluate their work performance during the rating period. This documentation should be used as a training tool. As such, appropriate documentation should be provided to the employee. A note that the supervisor makes to themselves and places in the supervisor's file is not considered documentation to the employee. Furthermore, there should not be anything in the employee's personnel file that the employee is not aware of or that you are not willing to share with the employee.

The following guidelines should be followed for effective documentation:

- Be objective--state the facts and give specifics, using quotes when necessary.
- Answer the questions Who, What, Why, When, Where, and How
- Be clear and concise. Your documentation should be understandable to a third party who knows nothing about your business.

Good documentation is important for several reasons. First, it provides a mechanism for effective communication in order to identify work performance strengths and deficiencies. Secondly, if the employee's work performance does not improve, good documentation can be used to substantiate disciplinary action. Lastly, good and consistent documentation provides a sound defense against discrimination complaints.

Documentation can come in various forms as indicated below, and the level of documentation depends on the severity of the infraction:

- 1) Verbal Counseling and Instruction (Refer to Section IV/A)
- 2) Written Memos (Refer to Section IV/B)
- 3) Letter of Reprimand (Refer to Section IV/C)
- 4) Work Performance Evaluation (Refer to Section VIII)
- 5) Work Performance Improvement Plan (Refer to Section IX)

E. Formal Disciplinary Actions

Formal discipline is another supervisory tool that can be used when appropriate, in accordance with Rule X of the Personnel Rules of the County of San Bernardino. Formal disciplinary actions consist of suspensions, demotions, reductions in salary step for a specified time period, and dismissals. Consult the Department Human Resources Officer if you believe that formal discipline is necessary. For further guidance, refer to Section V, "Formal Disciplinary Action."

IV. PROGRESSIVE DISCIPLINARY GUIDELINES

The County uses "Progressive Discipline," an approach in which each action taken is progressively more severe than the preceding one. It is based on the premise that honest, straight forward communication, both verbal and written, is essential in the supervisor-employee relationship; and that discipline is a natural consequence of the employee's misconduct and/or failure to meet standards and expectations despite prior training, instructions and warnings.

In most cases, the following steps should be taken prior to issuing discipline:

- Verbal counseling and/or instruction sessions
- Written memos
- Work Performance Improvement Plan (WPIP)
- Letter of Reprimand

A. Verbal Counseling and Instruction

Verbal counseling is usually the first step in the progressive disciplinary process. A supervisor must always discuss with the employee areas in which the employee's work performance is unsatisfactory as soon as the problem becomes evident. These discussions should not occur only at a formal work performance evaluation but on an ongoing basis and the meetings should be held in private. The supervisor should make a note of such counseling on a log or calendar. The note should include the date, time, full name of the employee,

the subject matter, a brief description of the situation that prompted the discussion and any proposed/stated resolution, if appropriate.

Verbal Counseling has many uses. It can be used to:

- Provide instruction/develop skills
- Clarify expectations
- Explain standards
- Solve problems
- Gather information
- Provide corrective feedback
- Reinforce appropriate conduct/performance
- Admonish an employee whose performance is below job standards

B. Written Memos

If the employee's work performance/conduct continues to be below standard after a verbal discussion, you should start to document, in writing, specific areas where improvement is needed. This can be done in different forms:

- Record of Discussion – this could be issued to memorialize a counseling discussion you held with the employee and to reiterate the standards, expectations and/or deficiencies discussed. **(See Attachment #2)**
- Memo of Concern – this could be issued if the employee performance/conduct continues after you have had a verbal counseling session with the employee. A Memo of Concern is issued if the subject matter is critical to emphasize the importance of the consequences of the employee's actions. **(See Attachment #3)**
- Memo of Instruction – this could be completed if the employee is not following directives, adhering to appropriate deadlines, or failing to follow policy. **(See Attachment #4)**

When issuing the appropriate memo, the memo should be specific and address the unacceptable behavior, the expectation, specific areas where improvement is needed, and how the employee can correct this behavior. The written document should specify whether or not the document will be placed in the County's official personnel file.

C. Letter of Reprimand

A letter of reprimand is usually the next step in progressive discipline. This is a severe disciplinary letter advising the employee that their performance/conduct is in violation of a specific section(s) of the Personnel

Rules and warns that additional violations will be grounds for formal disciplinary action. It is written and signed by the appointing authority or designee. It should be reviewed by the Human Resources Officer before being issued to the employee and should follow the recommended format of **Attachment #5**. The Letter of Reprimand becomes a permanent part of the employee's personnel file and is not appealable.

D. Formal Disciplinary Actions

Formal discipline is a formal adverse action taken by management toward an employee. Discipline in the County of San Bernardino can take place in several forms which include suspension, demotion, reduction of salary step, reduction in paid leave balances, and dismissal. Discipline should be appropriate given the circumstances involved.

Suspensions can be short term (as short as one hour) or long term (as long as several months).

A reduction in salary step entails reducing an employee's pay a specified number of steps for a specified duration (e.g. reduction of 2 steps for 10 pay periods).

A demotion is an appointment to a lower level classification, and is generally used when an employee can no longer perform the duties of the higher level position.

Dismissal is used for serious violation, or as a final action in progressive discipline in which the employee has been given every opportunity to improve deficiencies.

E. Factors to Consider In Determining the Appropriate Level of Discipline

- 1) Employee's status – probationary or regular
- 2) Length of County employment
- 3) Work performance history
- 4) Prior warnings/counseling
- 5) Has the employee been counseled about this issue before?
- 6) Prior disciplinary action
- 7) Have there been other disciplinary issues with the employee?
- 8) Time elapsed since prior action or notice
- 9) Severity of offense
- 10) Were there extenuating circumstances?
- 11) Was there malice on the part of the employee?
- 12) Documentation in Work Performance Evaluation (WPE)
- 13) Were deficiencies noted on most recent WPE?
- 14) Have WPEs been done at least annually?

- 15) Have there been Work Performance Improvement Plans (WPIPs) where applicable?
- 16) Has there been follow-up on WPIPs?
- 17) Other disciplinary documentation
- 18) Clear demonstration that employee is aware of rules, expectations, and consequences

Given the severity and consequences of the employee's conduct, it may be necessary to impose greater discipline foregoing a progressive approach.

V. FORMAL DISCIPLINARY ACTION

Formal disciplinary action is imposed when an employee fails to meet performance and behavior standards and expectations, despite prior training, instructions, counseling, and warnings. Generally, it is progressive and intended to assist employees to meet performance and conduct standards, communicate clear and objective expectations and areas of concern, and to mitigate performance and behavior problems.

The type and level of disciplinary action imposed will depend on various factors as described in the section above. A significant factor to consider is whether the employee is in a trainee, probationary or regular status position.

A. Probationary or Trainee Employee (Non-Regular Status)

Supervisors should effectively utilize the probationary period as an extension of the hiring process by closely monitoring the employee's work performance, conduct, capacity, efficiency, skill, responsibility, integrity, and effectiveness in determining whether or not the probationary employee will make a desirable, regular status employee.

Probationary employees should not be granted regular status unless the supervisor is completely satisfied with the work performance or conduct of the employee. If the probationary employee is not meeting work performance standards, then the employee may be terminated on probation or the supervisor may extend the probationary period to allow the employee more time to improve. This must be done prior to the employee completing the required hours to obtain regular status. It is highly recommended that you consult with your Human Resources Officer when this situation occurs.

A promoted employee who has attained regular status in another classification of County employment who does not successfully complete the probationary period in the promoted class may be returned to the former department and classification or a comparable classification without right to appeal. Employees in the Exempt Group are an exception to this rule.

An employee will never attain regular status while in a trainee status. A trainee classification is a lower-level classification in which the employee must qualify for the higher level classification or be terminated. Upon promotion to the higher level classification, the employee will serve a new probationary period.

Probationary employees are considered "at will employees" and may be dismissed demoted, reduced in step, or suspended without right to review or appeal unless based on political affiliation, unlawful discrimination, or for any other reason proscribed by law, at any time during the probationary period. Regardless, the supervisor must document a valid business-related reason for disciplining a trainee or probationary employee.

B. Regular Status Employee

Unlike private sector employees, a public sector employee with regular status has a vested property right in their position. Therefore, County employees are entitled to due process, and any cause for disciplinary action must be proven. An employee may obtain regular status (i.e., property rights) by successfully passing probation. Regular status employees may be demoted, suspended, reduced in salary step, or dismissed only for "good" or "just" cause. The Human Resources Officer plays a critical role in ensuring that the County can prove just cause and due process has been followed.

1. Just Cause (Legal Requirements of Discipline)

Whenever the County takes disciplinary action against a regular employee, the employee may appeal that action to the Civil Service Commission. The County has the burden of proof for any disciplinary action or dismissal imposed on a regular status employee.

The County must have good reason or just cause for taking an adverse employment action (i.e., suspension, reduction in step, demotion, or dismissal) against an employee. The following seven-step analysis is often used by hearing officers to determine whether you have “just cause.”

- 1) Was the employee given advance notice? Was the employee given thorough verbal or written warnings from management setting forth certain types of conduct which the County will not tolerate and will result in disciplinary action? For example, such warnings would have been communicated during employee orientation, staff meetings, individual meetings, and signed acknowledgements.
- 2) Were the County or Departmental rules, policies, practices, procedures, or performance standards which were violated reasonable and job-related?
- 3) Was an investigation conducted *before* the discipline was imposed?
- 4) Was the investigation conducted fairly and objectively? Was the investigation conducted by an objective and impartial investigator? It is recommended that the investigator be one supervisory level above the witnesses to the alleged conduct.
- 5) Was there substantial evidence or proof (more likely than not) that the employee was guilty of poor performance or misconduct?
- 6) Has the Department applied the rules, policies, or procedures, etc., and penalties equally and fairly to all employees without discrimination?
- 7) Was the level of discipline imposed reasonably related to the seriousness of the proven offense, offenses of a similar nature, the employee’s employment record, and his/her length of service?

In summary, to prove “just cause,” each case is looked at independently based on the totality of the circumstances and not necessarily every element mentioned above.

2. Types of Actions

As previously stated, discipline is a formal adverse action taken by management toward an employee. In the County of San Bernardino, discipline can take place in several forms which include suspension, demotion, reduction of salary step, reduction in paid leave balances, and dismissal.

Suspensions **can** be short-term (as short as one hour) or long term (as long as several months). In some cases, employees can only serve suspensions in one week increments. The Memorandum of Understanding (MOU) should be referenced in determining which employees are subject to this requirement.

Reductions in Salary Step entail reducing an employee's pay a specified number of steps for a specified duration (e.g., reduction of 2 steps for 10 pay periods). Generally, these are calculated to be equivalent to a designated number of days off (in this example, 10 days). The appointing authority may elect to use this type of discipline for any reason. Generally, it is used when an employee is being disciplined and the appointing authority does not want to give the employee time off, because, perhaps workload demands could not be met, or the employee is being disciplined for leave abuse.

A demotion is an appointment to a lower level classification. Demotions are generally used when an employee can no longer perform the higher level duties (e.g., employee cannot perform supervisory level duties).

Generally, dismissal is used for serious violations of County and/or Department rules, policies, procedures, or performance standards, or a final action in progressive discipline in which the employee has been given every opportunity to improve deficiencies or correct the behavior.

3. Notice of Proposed Action

Prior to imposing any formal disciplinary action, a regular status employee shall receive written notice of the proposed disciplinary action at least five working days before such action is taken and must include the following:

- Notice of proposed action and effective date, signed by the appointing authority;
- Reasons for proposed action pursuant to Rule X, Section 2 of the County Personnel Rules;

- A copy of the charges stating specific incidents or specific courses of conduct; e.g. as evidenced by Work Performance Evaluations;
- A copy of the written materials upon which decisions to take proposed disciplinary action is based; and
- A notice to the employee of the right to respond to the appointing authority in writing and/or orally within five (5) working days of the receipt of the proposed disciplinary action.

The format of the Notice should contain the word "Notice of Proposed (Action)", and should follow the format as shown in **Attachment #6**. Usually the Human Resources Officer will prepare the Notice. In all other cases, the Human Resources Officer shall review the Notice before it is given to the employee to ensure proper charges and violations of the Personnel Rules are cited and may be relied upon for his/her review and verification of the facts stated.

If a formal disciplinary action, excluding termination, is imposed on a probationary employee, a notice of proposed discipline is not necessary. Consult with your Human Resources Officer for appropriate documentation.

4. Limitation and Exceptions to Written Notice

Verbal notice of formal disciplinary action is insufficient as full notice to an employee and may only be given as the initial notice in extraordinary circumstances calling for immediate action, or for short-term suspensions (See section V, 8). Extraordinary circumstances are specified by the Personnel Rules as those situations in which such action is essential to avert harm to the public, other employees or avert serious disruption of governmental business. They include, but are not limited to, situations involving: misappropriation of public funds or property; working under the influence of intoxicating drugs and/or alcohol; clear insubordination; commission of a crime involving moral turpitude punishable by imprisonment for six (6) months or more; and disruption of County business through willful misconduct (physical altercations, etc.). In lieu of an oral order of suspension, an employee may be placed on paid administrative leave pending investigation of misconduct or for any other reason deemed appropriate by the appointing authority(see section VI).

5. Skelly (Due Process Rights)

In a Notice of Proposed Disciplinary Action, the employee is advised of their right to respond to the appointing authority, either orally or in writing, explaining or countervailing the causes and reasons in the notice of proposed discipline prior to said action being imposed. If the employee chooses to do this orally, a “Skelly” meeting is scheduled with the appointing authority who serves as a “Skelly” Officer. A “Skelly” meeting is the employee’s opportunity to respond to the charges and present mitigating circumstances surrounding the proposed disciplinary action.

Generally present at the “Skelly” meeting is the appointing authority (or designee), the Human Resources Officer on behalf of management, the employee, and the employee’s representative, if requested by the employee. In some cases, the appointing authority may invite a subordinate manager or supervisor.

After the “Skelly” meeting, or upon receipt of the employee’s written response, the appointing authority shall review the response and determine whether the initial proposed disciplinary action is the most appropriate. The appointing authority may impose the same level of disciplinary action, modify with less severe disciplinary action, or rescind the notice of proposed discipline, but not impose greater or more severe discipline. If the appointing authority determines the action is necessary, the Order of Discipline is issued.

If the Civil Service Commission finds that an employee’s due process rights have been violated, the disciplinary action or dismissal imposed by the appointing authority will be overturned.

6. Order of Disciplinary Action

The disciplinary action does not become effective until the employee is served with the Order of Disciplinary Action. The Order is usually prepared by the Human Resources Officer and should follow the recommended format of **Attachment #7**.

The Order shall include:

- Disciplinary action, effective date, and signature of the appointing authority;
- Reasons for action pursuant to Rule X, Section 2, of the County Personnel Rules;
- A copy of the charges stating specific incidents of specific courses of conduct, e.g., as evidenced by Work Performance Evaluations;

- A notice to the employee of the right to appeal the Order to the Civil Service Commission in writing within five (5) working days of receipt of the Order; and
- A notice to the employee that a written answer to charges must be filed with the Civil Service Commission within five (5) working days of filing of notice of appeal with the Civil Service Commission.

A copy of the Order shall be personally served on the employee or sent by priority mail-delivery confirmation to the employee's last known address.

7. Hearings

Upon receiving an Order of Disciplinary Action, the employee may appeal the discipline to the Civil Service Commission. The case will either be heard by the Commission or by a professional arbitrator, known as a Hearing Officer.

The hearings are full evidentiary hearings. Both sides are allowed to call witnesses and introduce exhibits. The County has the burden of proof and must show by "preponderance of the evidence" that there was cause for action and the action was appropriate.

Generally, the Human Resources Officer assigned to the department will represent the County. In some cases, County Counsel will represent the department. A department representative will also be present. The appellant will be present, with representation if they so choose. After the hearing, the Civil Service Commission or the Hearing Officer will give each party a written decision of its findings within 30 days.

The Civil Service Commission or Hearing Officer may either uphold or overturn the disciplinary action based on the merits of the case. If the Hearing Officer or Civil Service Commission finds that an employee's due process rights have been violated, the disciplinary action or dismissal imposed by the appointing authority will be overturned.

Costs associated with the hearing, and preparation of the same, will be borne by the parties as outlined in the Personnel Rules and/or applicable MOU.

8. Short-Term Suspension without Written Notice

A short term suspension of five days or less without written notice may be given only in extreme cases where it is imperative to avert serious disruption of County business. The employee is removed from the work area and orally notified that they are suspended effective immediately.

Such examples include situations involving misappropriation of public funds or property, working under the influence of intoxicating drugs or alcohol, clear insubordination, commission of a crime involving moral turpitude punishable by imprisonment for six (6) months or more, and disruption of County business through willful misconduct (physical altercation). The Personnel Rules state that oral notice is sufficient as the initial notice prior to the imposition of such a suspension. If such oral notice of suspension is given, the cause(s) for the suspension must be provided at the same time. Please note this method of imposing suspension is **RARELY** used.

In these situations, the Personnel Rules require that a written Order of Suspension be prepared and a copy of the Order be personally served upon the employee within three (3) working days of the conclusion of the suspension.

NOTE: You must notify your Human Resources Officer immediately if this happens.

The Order of Suspension shall contain the following:

- The effective date of the suspension;
- The causes and reasons for the action pursuant to Rule X, Section 2 of the County Personnel Rules;
- The charges stating specific incidents or specific courses of conduct;
- A copy of the written materials upon which the action is based;
- Notice of the employee's right to respond either orally and/or in writing to the Appointing Authority imposing the action within five (5) working days of service of the order on the employee; and
- Notice of the employee's right to appeal to the Civil Service Commission.

The Order of Suspension should follow the format as shown in **Attachment #8**. Your Human Resources Officer will prepare the Order of Suspension.

If the employee chooses to respond to the Appointing Authority, the Appointing Authority shall review the response and determine the appropriate course of action. This may include affirming the disciplinary action, modifying with less severe disciplinary action, or rescinding the disciplinary action.

VI. ADMINISTRATIVE LEAVE (ERL)

Administrative Leave (ERL, Employee Relations Leave) should be used only in situations where the appointing authority, in consultation with Human Resources, deems it necessary to remove an employee from the worksite with pay to enable an administrative review of the employee's conduct and to determine appropriate disciplinary action or to control employees' ability to engage in conduct that would be harmful to County operations.

When an issue arises that may warrant placing an employee on Administrative Leave, the appointing authority or designee shall consult with the departmental Human Resources Officer to review the case to determine if it is necessary to remove the employee from their assigned work location. In some cases, rather than placing an employee on Administrative Leave, an employee may be placed in an alternate division within the department, or another department within a group.

If the appointing authority determines that the employee must be placed off work, the employee shall be placed on ERL and shall be so notified and directed to remain at home and available to meet or report for duty during assigned duty hours **(See Attachment #9)**. Should the employee become unable to remain available due to illness, injury, or other qualifying reason, the employee shall so notify the department and request personal paid leave or leave without pay. Employees shall be required to use Holiday Leave for any holiday occurring during the period the employee is directed off work.

The employee's Time and Labor Report (TLR) shall be coded as ERL. The Human Resources Officer must report any ERL time used to the Employee Relations Division of Human Resources. The Human Resources Director shall be notified of all cases exceeding 80 hours of ERL. The CAO shall be notified of any case exceeding 160 hours of ERL. (County Policy 06-15 and 06-15SP, Employee Relations Leave (ERL))

VII. ATTENDANCE & LEAVE

A. Attendance Control/Analysis

Attending work regularly is a basic condition of employment. Excessive and unscheduled absences disrupt business operations and service to the community we serve, often incurring overtime expenses and causing an undue hardship on coworkers who have to assume additional tasks. As a supervisor, it is your responsibility to closely monitor your staff's attendance and immediately address any unauthorized absences and tardiness. You should also have a general idea of leave balances for employees you supervise. It is important that you are fair and consistent when enforcing attendance standards.

B. Protected Leave

Federal and state regulations protect employees while they are out on a qualified leave of absence. Therefore, when calculating excessive absenteeism the following absences should be excluded:

- 1) Leave qualifying under the Family Medical Leave Act (FMLA) allows County employees a maximum of 12 weeks of leave time per rolling calendar year for:
 - (a) Absence due to employee's own serious health condition, the serious health condition of a child, spouse, or parent, defined as in excess of three (3) calendar days. A Request for Extended Sick & Special Leave, RESSL form must be completed (**Attachment #10**). Additionally employees may

qualify for Short term Disability Insurance (STD) and a packet should be provided. See your payroll specialist for information.

(b) Absence related to a pre-approved intermittent leave due to employee's serious, chronic health condition or that of a child, spouse or parent. Examples of a serious, chronic health condition include asthma, cancer, or a child with a disability. This absence does not necessarily need to be more than 3 consecutive days.

(c) Any absence due to prenatal care.

2) Leave qualifying under the California Family Rights Act (CFRA)

The California Family Rights Act is the state regulation pertaining to leave time. CFRA provides the same protection as the Family Medical Leave Act (FMLA) with the following additional benefits:

(a) Includes a maximum of 12 weeks of "bonding time" to care for a newborn child or placement of child for adoption or foster care.

(b) Includes employee's absence to care for a domestic partner with a serious health condition.

*In all situations, with the exception of the above, CFRA runs concurrently with FMLA, meaning that employees are allowed a *total* of 12 weeks per rolling calendar year under both FMLA and CFRA (**See Attachment #11**).

3) Absence due to occupational injury or illness.

4) Military leave.

C. Granting Appropriate Time (Approved & Unauthorized)

Sick leave is not an earned right, but an insurance benefit provided by the County for specific purposes as defined in the MOU. Therefore, the supervisor may ask the general nature of the illness, NOT the diagnosis, in order to ascertain whether or not the employee is eligible to use sick leave, or qualifies for leave under the Family Medical Leave Act (FMLA). For example, a family emergency may not necessarily qualify for sick time, but the supervisor may allow the employee to use vacation time depending on the

situation. Once it is determined that an employee has a qualifying FMLA condition, the employee is not required to disclose any more information.

Furthermore, the supervisor has the right to request medical verification at any time for questionable requests. For example, if an employee calls-in sick on a day that vacation time was previously requested and denied, it would be appropriate for the supervisor to request a doctor's certification. Remember to exercise your authority with caution and consider the circumstances. Just because you have the right to take action does not mean that it is appropriate.

Vacation is a right, earned as a condition of employment, to a leave of absence with pay for the recreation and well-being of the employee. If an employee has exhausted sick leave, vacation leave may be used for sick leave purposes upon the employee's special request and with the approval of the appointing authority. Vacations should be pre-scheduled but emergency situations can be taken into consideration, such as a flat tire or lack of childcare.

The use of an authorized leave without pay may be appropriate in emergency situations for a short duration and should be used cautiously as these absences are in excess of the employee's sick and vacation leave entitlement under the MOU.

Absences may be deemed unauthorized without pay depending on the circumstances; for example, tardiness in excess of Department standards, failure to provide appropriate medical documentation of absence upon request, or failure to provide adequate notification of an absence. Be reminded that unauthorized absences without pay should be addressed (i.e. counseling, Memo of Concern, Letter of Reprimand, or formal discipline.)

D. Attendance and the Disciplinary Process

These guidelines have been developed to help you effectively handle attendance issues. Keep in mind that individual situations may vary, so contact the Department Human Resources Officer if questions arise.

- 1) Closely monitor attendance and keep an on-going attendance record for each employee. Identify patterns of absenteeism and/or potential sick leave abuse.
- 2) Address each issue immediately by verbally counseling employee.
- 3) If an employee's absenteeism becomes excessive, prepare an attendance analysis **(See Attachment #12)**. As a general guideline, absenteeism is considered excessive when an employee utilizes more than 75% of their annual sick leave accruals, or approximately 66 hours

during any 12 month period. This amount excludes any protected time. (See section VII-B, "Protected Leave"). In some Departments, this standard may be higher or lower because the impact of absenteeism varies, depending on the individual circumstances.

- 4) If counseling did not resolve the issue, then a written memo may be issued to further emphasize the importance of attendance and the consequences of continued absenteeism (**Attachment #13**). In some situations, supervisors may consider removing employees with attendance problems from alternative work schedules (i.e. flexible, 9/80, 4/10) and placing them on a regular 5/40 work schedule when appropriate.
- 5) If excessive or patterned absenteeism continues, place the employee on Leave Restriction, which requires the employee to provide medical verification of every absence. (See section, VII E, Leave Restriction".)
- 6) If the behavior continues and/or the Leave Restriction Plan is not adhered to, continue the progressive disciplinary process by issuing a Letter of Reprimand or considering formal discipline. For example, if the employee does not provide an off-work order for each occurrence of illness or injury or fails to provide the Department proper notice of illness, take the next appropriate progressive action.
- 7) At the end of the Leave Restriction Plan, re-evaluate the employee's attendance. If an analysis indicates that the employee's absenteeism continues to be excessive or if the employee has exhausted their protected time under FMLA, then consult with the Department Human Resources Officer to take appropriate action.

E. Leave Restriction

The purpose of the Leave Restriction Plan is to deter employees from unnecessary absences (**See Attachment #14**). An employee may be placed on leave restriction due to excessive and/or patterned absenteeism. A component of the Leave Restriction Plan, is that the employee is required to provide a doctor's certification for each occurrence of illness, injury or that of an immediate family member. Although the employee is required to provide a doctor's certification, this does not necessarily mean that the absence is considered protected leave.

Sick leave should only be granted if the employee has a valid medical excuse. If the employee has exhausted all of their sick leave, vacation leave **may** be used for sick leave purposes only with supervisory approval. No vacation or other leaves should be allowed while employees are on a Leave

Restriction Plan. However, emergency situations may be considered on an individual basis.

It is the supervisor's responsibility to ensure compliance with the Leave Restriction Plan by continually monitoring the employee's attendance and following-up with appropriate action. The recommended length of the Leave Restriction Plan is usually six (6) months; however, it is not necessary to wait until the expiration of the Leave Restriction Plan to take action for non-compliance.

F. Failure to Return/ Auto Resignation

Periodically, an employee simply stops coming to work. An employee absent without approved leave for three (3) consecutive working days, who fails to notify the immediate supervisor and provide an acceptable reason for the absence to the appointing authority, or who otherwise abandons employment with the County, shall be considered to have automatically resigned as of the last day on which the employee worked unless the appointing authority approves leave with or without pay to cover the absence.

Pursuant to Personnel Rule IX, Section 7, automatic resignations may apply in any circumstance where the employee:

- a. Fails to obtain approved leave prior to any period of absence for three (3) consecutive working days;
- b. Fails to return to work for three (3) consecutive working days, following an approved leave of absence or upon expiration of an off work order;
- c. Refuses to accept or fails to respond to an offer of accommodation that would permit the employee to return to work;
- d. Fails to provide appropriate documentation to substantiate any period of absence for three (3) consecutive working days; or
- e. Fails to cooperate with the appointing authority's attempts to engage in the interactive process such that, based on the information available to the appointing authority in the absence of the employee's cooperation, the appointing authority is unable to determine if an accommodation would allow the employee to return to employment.

If an employee falls under one of the circumstances described above, notify your Human Resources Officer immediately. The Human Resources Officer will prepare the written notice with the facts supporting the proposed action and provide to the employee via Delivery Confirmation. The employee then

shall have five (5) working days from the date of service to respond to the appointing authority. If the explanation provided to the appointing authority is acceptable, the employee will return to work. If the employee returns to work, disciplinary action may still be warranted.

If the employee does not respond, the Human Resources Officer may send a notice to the employee that they have been terminated.

G. Tardiness

Employees are expected to be present at their assigned work location and ready to begin work at the start of their scheduled work shift. If they are not, they are considered tardy. Individual Departments may have specific policies regarding tardiness. Make sure you are applying this standard consistently and fairly. Tardiness is another behavior which can get out of control if left unaddressed. The impact of tardiness will vary depending on the Department and position.

These guidelines have been developed to help you effectively handle excessive tardiness:

- 1) Clearly communicate expectations.
- 2) Identify official time-keeping device, i.e. clock.
- 3) Address each incident of tardiness immediately. Do not let it become a habit or enable it. Verbally counsel employee when appropriate.
- 4) Keep accurate records and document reason for tardiness and other pertinent information.
- 5) Document excessive tardiness by issuing a Memo of Concern.

- 6) Continue to monitor attendance. Do not allow the employee to make up the time, use their leave balances (other than sick leave), or change their schedule. Consider circumstances in determining whether to record continued tardiness as an unapproved absence without pay. Keep in mind that emergency situations may be considered on an individual basis.

- 7) If tardiness continues, issue Letter of Reprimand citing the Personnel Rule violation.
- 8) If issuing a Letter of Reprimand is not effective in correcting the employee's tardiness, take progressive disciplinary action in consultation with the Department Human Resources Officer.

VIII. WORK PERFORMANCE EVALUATIONS (WPE)

A Work Performance Evaluation (WPE) is a form completed by the supervisor to evaluate an employee's work performance at periodic intervals to end or extend probation or trainee period, to grant merit (step) advancements or rate the individual on an annual basis. The County operates on a merit system, which

means that employees do not automatically qualify for a raise because they have worked the pre-requisite number of hours; they must be meeting standards or above to receive a step increase. The Work Performance Evaluation (WPE) is a tool in which to evaluate an employee's work performance during the rating period.

The purpose of a WPE is to assist the department in developing and assuring departmental goals and objectives are being met and to assure that every job is being performed as effectively as possible. It is a key supervisory tool used to set standards and expectations and communicate progress and areas for improvement.

A WPE will also provide feedback to employees on their performance and will assist employees in performing job duties more effectively, easily, and at a level that is satisfactory to the department. This will ensure that all employees are given the opportunity to grow in a job, that good employees may become outstanding and that any employees who are below standards may be brought up to standards.

The supervisor's signature indicates that this is the best assessment of the employee's performance. The employee's signature is obtained at the end of the WPE conference. The employee's signature indicates that the employee has participated in the process, not that they agree with the contents of the evaluation.

A. Types of Work Performance Evaluations

Supervisors are required to complete work performance evaluations on probationary and regular employees according to the San Bernardino County Personnel Rules. During the probationary period, the supervisor shall prepare a progress report that includes a review of the probationer's work, as well as their conduct to determine whether the employee is fully qualified for the position, eligible to receive a merit advancement, or pass probation (obtain regular status). The required work performance evaluations (or progress reports) are completed according to the duration of the probationary period being served, as follows:

1) Thirteen (13) Pay Periods (1,040 service hours) Probation:

4th – 6th Pay Period – Probationary Progress Report: Intended to clarify the job requirements and expectation and is a report of job performance to date. It is ***not*** intended to qualify an employee for step advancement or grant active status.

11th Pay Period – Probationary Progress Report: Intended to report job performance to date and grant active status and step advancement to an employee who is required to serve 1,040 hours of probation; may also be used to extend probation.

2) Twenty (20) Pay Periods (1,600 service hours) Probation:

4th – 6th Pay Period – Probationary Progress Report: as indicated above.

11th – 13th Pay Period – Probationary Progress Report: Intended to report job performance to date and to grant an employee who is required to serve 1,600 or 2,080 service hours of probation, the first step advancement, *not* active status.

18th Pay Period – Probationary Progress Report: Intended to report job performance to date and to grant active status, not step advancement to an employee who is required to serve 1,600 service hours of probation; may also be used to extend probation.

3) Twenty-six (26) Pay Periods (2,080 service hours) Probation:

4th – 6th Pay Period – Probationary Progress Report: as indicated above.

11th – 13th Pay Period – Probationary Progress Report: as indicated above.

18th and 24th Pay Period – Probationary Progress Report: Intended to report job performance to date and to grant active status, not step advancement to an employee who is required to serve 2,080 service hours of probation; may also be used to extend probation.

4) Annual Work Performance Evaluations:

Supervisors are required to evaluate job performance for the previous year to date and to grant a step (or merit) advancement within their base salary range for eligible regular status employees.

B. Position Standards

The most important management responsibility and useful tool is that of establishing reasonable standards of position performance. They are the first steps in goal and priority setting, they are required for classifying positions, examining for jobs, interviewing, training, orienting, developing employees, justifying new positions and organizational restructuring, and controlling

accountability. Position standards include what the actual tasks are and what skills, knowledge, abilities and attitudes are required.

Job standards are written statements of what is expected of an employee in the performance of duties or tasks of the job. They are a statement of what constitutes a job well done.

Establishing job standards is the responsibility of the supervisor. Supervisors have expectations as to the quality of the work to be performed by their employees. Employees may be unsure of what these are unless they are written; and even when they are written, it is very easy to have a misunderstanding as to the meaning of the words. Supervisors should discuss the standards with the employee so a common understanding is established.

Writing standards helps to ensure:

- Impartiality, objectivity, and fairness in relationships between employees and supervisors;
- Job related orientation and on the job training;
- Clarification of job responsibilities;
- Realistic and helpful reports (evaluations) of work performance;
- Recognition of good performance; and
- Identification of employee development needs.

Standards must be written for a task at the level which constitutes fully acceptable performance. Standards can vary considerably, depending on what is involved in a given job.

Standards should be set at a level which a competent employee will be able to reach and that can be exceeded by an outstanding employee. If the standard is set too low, it may be possible for unsatisfactory employees to meet or exceed it.

This means that the standard is not necessarily the average performance of employees presently performing the task. The performance of any given group may at a given time be above or below what is actually needed to get a job done. Equally, the standards should not be set at the level attained by the present employees. If a position is filled by a person of unusually high competency, the use of his attained level of performance as the standard may

penalize him/her by making his/her performance appear only adequate when it is really outstanding. This is also unfair to competent but not so outstanding employees.

Standards should express the full range of competent performance. They need to be expressed in terms of the top and bottom limits of the range; otherwise the standard may be easily misunderstood.

Standards need to be written for each particular position and not just for the broad classification. There are wide variations of assignments within each classification. The standards should be written for each position as it exists, based upon the significant tasks of the job at the present time. These standards should be reviewed annually, or as changes occur, to ensure that they are realistic and current.

C. Preparing the WPE

Work performance evaluations are to be completed by the immediate supervisor on time and received by payroll on their due dates.

It is recommended that a draft prepared by the employee's immediate supervisor is reviewed by the reviewing official prior to being given to the employee. Once the employee has signed the evaluation, no changes can be made to the WPE.

1) Layout

When you receive the WPE form from payroll it will already have the following information:

- Employee Name
- Employee ID
- Job Code
- Due Date
- Department

The form is divided into eight sections where the duties and responsibilities can be described in eight different task statements. The first section should always contain the "Customer Service" standard. The other seven (7) sections of the WPE must clearly identify the tasks that are most critical to successful job performance. The greater the accuracy of the task statement describing the employee's duties, the more value the appraisal process will have in determining job performance issues.

The performance rating should be noted in the upper left hand corner of each performance block.

2) Justifications

The “justification” space should be utilized to give specific examples of work performance. Comments are important for each rating. Justifications of performance ratings should be neat, readable, and uncluttered. Attach additional pages with justifications, if necessary. Attachments should be clearly marked.

Supervisors should consider the following when writing justifications for a WPE:

- **Approach** – Justification should show a track record or performance history over the evaluation period. They should display the employee’s strengths and weaknesses in accomplishing his or her tasks and performance standards. Finally, justifications should demonstrate the employee’s ability and knowledge to perform the job and measure accurately against the standard.
- **Accuracy** – The supervisor should develop a clear, specific statement of department expectations. This should be supported by correspondence and/or directives given over the rating period.
- **Clarity** – The evaluation should be clear and unambiguous to the employee and to anyone else reading the work performance evaluation. Be specific when documenting an issue or event. Use specific examples and give a factual account of what took place. Important issues should not be minimized. Minimizing the issue could give the impression that the employee is meeting standards or that it is not important whether the employee meets standards or not. The importance of providing a clear message cannot be over-emphasized.
- **Specificity** – Supervisor should describe task performance in detail to define problem areas which have resulted in the performance rating.

Generally, comments regarding the employee’s personality should be avoided. The focus should be on work performance. For example, “John is a good man,” is a poor statement to use on a WPE. A good statement would be, “John performs the technical and operational calculations of his job satisfactorily.” Information that is not substantiated by fact is not recommended for use in the evaluation

process. Completion of the overall evaluation should evaluate the employee's effectiveness in completing the job in relationship to the job standards for each position.

3) Performance Ratings

Once critical tasks have been identified, the employee's job performance should be evaluated by using a rating code to describe the level of performance. In order to rate employees equitably, it is important for supervisors to have the same understanding of what constitutes the various qualities, or degrees of problem areas, to warrant each of the different ratings. The following is suggested:

Exceeds

Employee generally performs job tasks beyond the level achieved by his/her peers. Incidents of exceptional performance occur from time to time. In considering level of work performed, you as a supervisor clearly recognize the performance level more than meets job standards and is above average.

Meets

Employee performs tasks consistently at the level achieved by the majority of his/her peers. Employee is cooperative, strives not to make errors and readily corrects errors as they are brought to his attention. A normal and satisfactory rate of growth is maintained. You as a supervisor feel comfortable with the employee's production and attitude.

Below Standards (Needs improvement)

Employee performs job tasks at a level which is somewhat below his peers, or has a significant problem in one aspect of performing a job task. As a supervisor, you feel assured that the employee will be able to improve his/her work and meet standards within a reasonable time frame.

Unsatisfactory

Employee clearly performs job tasks at a level below that of his peers, or has a severe problem in one aspect of performing a job task. Employee's problem(s) significantly affect the quality or quantity of his/her work production or staff relationships. Employee demonstrates little or no concern, or little or no improvement in resolving the problem. As a supervisor, you are unable to predict that the employee will bring his/her work up to minimum standards within a reasonable period of time.

4) Including Disciplinary Actions

It is important for supervisor to remember that the WPE reflects a particular evaluation period and what occurred during that time. If discipline occurred during the evaluation period it should be mentioned. How the discipline is mentioned depends on whether the discipline was due to performance or misconduct.

D. Evaluation Meeting

Supervisors must meet to review and provide the WPE to the employee. Meeting with the employee allows an open discussion about the ratings and justifications outlined in the WPE. The meeting should be scheduled with advance notice. Allow sufficient time for both the supervisor and the employee to discuss the goals and objectives for the next rating period in addition to the current evaluation.

At the conclusion of the meeting, the employee should sign the WPE. If the employee refuses to sign the WPE, remind them that by signing they are not implying agreement with the content of the WPE, but rather acknowledging receipt. If the employee still refuses to sign, tell them they must sign the harassment policy and call in a witness. The witness will write "employee refused to sign" on the employee signature line and sign next to that comment (**See Attachment #15**).

E. Performance vs. Misconduct

Discipline arising out of performance is related to the job standards and expectations you have set for that employee. This discipline should be noted in the appropriate rating categories. Discipline related to performance issues is generally addressed through the progressive steps of discipline.

Misconduct relates to a violation of policy. This should be noted on the WPE. Generally, while it is best to exercise progressive discipline when misconduct occurs, some steps in the progressive disciplinary process may be bypassed. For example, an employee who is a good performer but is caught stealing, will probably be terminated on the first offense.

F. Appeals and Rebuttals

If the employee disagrees with the content of a WPE, they may file a written answer or exception with the evaluator to any evaluation, regardless of the overall rating. The evaluator shall forward the rebuttal to the appointing authority, and such answer or exception must be acknowledged by the appointing authority and forwarded to Human Resources to become a permanent part of the official personnel file.

Employees with regular status, who are rated with an overall rating that is below standards, may appeal the content of the WPE as outlined in the Personnel Rule VIII. There are established time frames associated with WPE appeals, so it is important to note when the employee receives the official copy to start the clock.

IX. WORK PERFORMANCE IMPROVEMENT PLAN (WPIP)

A Work Performance Improvement Plan (WPIP) is recommended if an employee's work performance has been below standards and after being counseled about their performance, still shows no improvement in the areas noted. A WPIP should also be initiated if the employee's WPE is rated overall as "Below Standards" or "Unsatisfactory," due to performance; such plans should be attached to the WPE or completed shortly thereafter.

A WPIP should be completed to cite the performance area(s) in which the employee is below standards. The WPIP should contain the following **(See Attachment #16)**:

- A clear and succinct description of the problem area(s) and reiterate the departmental expectation. It is important to discuss only one problem area at a time in each section of the WPIP. Cite previous instruction, counseling sessions, and direction provided in each area. Your example should also

clearly explain the impact and/or consequence of the behavior to the department, organization, team, etc.

- A plan of action developed for the employee, which, if followed, will result in resolution of the problem. Identify specific actions and/or behavior required to correct the problem.
- The activities provided by the supervisor to assist the employee. Ask what the employee needs from you to address the problem. Activities should include training that will be provided, monitoring, and a description of how you will monitor the employee's conduct and progress.
- The duration of the WPIP should be noted. Generally a WPIP can last from 60 to 90 days. It is important to stress that if the employee's performance improves during the designated time period, he/she will be responsible for sustaining performance that meets standards beyond the time period.
- Indicate intervals in which you will be giving the employee progress reports. You should hold a meeting with the employee to go over the employee's progress or lack of progress. Progress reports should be prepared noting the employee's improvement or lack of improvement and shall be furnished to the employee after each meeting (**See Attachment #17**).
- State the consequences for not improving performance or not making enough improvement at the end of the designated time period. This could include reprimand, demotion, reduction in step, suspension or dismissal.

Once you have completed writing the WPIP, you must meet to discuss the content in depth with the employee. Ensure to discuss what the employee is expected to do and what you, as the supervisor, are expected to do for successful completion of the WPIP. A WPIP is a two way contract. As the supervisor you must follow-up on the employee's progress, meet with the employee to review progress and ensure that the employee has the appropriate resources available to be able to perform his/her duties as expected. A supervisor should document these discussions in order to keep a record of the employee's progress, or lack of progress, throughout the designated time period.

At the end of the designated time period, if the employee's performance has improved and now meets the job standards, you can notify the employee that no further action taken at this time and that the employee is expected to sustain the current performance level.

If performance remains below the level specified as acceptable, the department may then initiate an out of cycle Work Performance Evaluation and should then discuss options for progressive discipline with the Human Resources Officer.

X. COMMUNICATION

Continuous communication is not only helpful for supervisors, it is also essential for success. As a supervisor, it is your responsibility to effectively communicate with employees on a regular basis, not only at the beginning of their employment, but also throughout the entire time they are employed with you. Supervisors should regularly meet with each employee they supervise to discuss expectations, provide directions, and solicit feedback. These meetings should be

conducted one-on-one and in person. When appropriate, these meetings may be followed up with documentation in the form of notes, memos or e-mail.

Although communication comes in various forms, (one-on-one, e-mail, memo, staff meetings, et cetera), supervisors should rely on e-mail and memos only when necessary. It is important to establish a face-to-face communication with each employee so that ideas, expectations, and concerns can be shared.

Positive communication is also an important tool for supervisors. Commendations, verbal praise, acts of appreciation, and other forms of recognition given to an employee usually manifest into more positive work production. It is equally important to document positive actions of employees.

XI. RESOURCES

A. Your Human Resources Officer (HRO)

The HRO provides the following services to the various County Departments:

- Provides consultation to department and acts as a liaison between the department and Human Resources.
- Provides counsel and advises management concerning grievances, disciplinary actions, and related personnel matters.
- Interprets applicable Memorandum of Understandings, Personnel Rules, Contracts, Ordinances and Policies.
- Ensures fair and consistent administration of the Memorandum of Understanding and policy.
- Investigates discrimination, sexual harassment, and workplace violence complaints, and makes appropriate recommendations to Department heads.
- Investigates complaints or allegations of misconduct.
- Negotiates and administers labor agreements and the Personnel Rules for the County.

B. It is important when referencing the **Memorandum of Understanding (MOU)**, you are referencing the MOU appropriate for the job classification of the employee. MOUs can be found at <http://Countyline/hr/employeerelations/default.asp#mou>.

1. Attorney MOU;
2. San Bernardino Public Employees Association (SBPEA) General Consolidated MOU (Administrative Services; Clerical; Craft, Labor & Trades; Management; Professional; Supervisory; Supervisory Nurses; And Technical & Inspection Units);
3. Nurses Unit MOU;
4. Per Diem Nurses MOU;
5. Safety MOU;
6. Safety Management and Supervisory MOU;
7. Specialized Peace Officer & SPO Supervisory MOU;

C. **Personnel Rules** are the basis of most Human Resources Procedures and can be found at: [\(http://Countyline/hr/employeerelations/default.asp#mou\)](http://Countyline/hr/employeerelations/default.asp#mou)

- D. **County Policy Manual** can be found at (<http://Countyline/policy/>)
- E. **Human Resources Website** can be accessed from Countyline (<http://Countyline/hr/>) or sbcounty.gov/hr.
- F. **Department Policies and Procedures**

ATTACHMENTS

- #1. Orientation Checklist
- #2. Record of Discussion
- #3. Memo of Concern
- #4. Memo of Instruction
- #5. Letter of Reprimand
- #6. Notice of Proposed Disciplinary Action
- #7. Order of Disciplinary Action
- #8. Order of Suspension – Short Term No Written Notice
- #9. Administrative Leave (ERL) Letter
- #10. Request for Extended Sick & Special Leave (RESSL)
- #11. FMLA/CFR Timeline Chart
- #12. Leave Analysis
- #13. Notice of Excessive Sick Leave Memo
- #14. Leave Restriction Plan
- #15. WPE “Employee Refuses to Sign”
- #16. Work Performance Improvement Plan
- #17. WPIP Progress Report

NEW EMPLOYEE ORIENTATION CHECKLIST



- Organizational Chart
- Job Description
- Hours of Work: _____
 - Lunch: _____
 - Break: _____
- Work phone number: _____
- Leave Procedures
 - green slips
 - contact: supv: _____ _____

name phone number
 - other: _____ _____

name phone number
- Payroll
 - Direct deposit required
 - Pay day: every other Thursday
 - Time & Labor Reports
 - 1st paycheck: _____
- Computer Access (see New Employee Computer/ Systems Access Checklist)

Attachment #1
**NEW EMPLOYEE ORIENTATION
CHECKLIST**

- Badges
 - Replacement cost: _____
 - Access to offices
 -
 - Personnel Policies and Procedures (See Personnel Policies & Procedures packet)
 - Tour of Office
 - Bathrooms
 - break room
 - confidential paper shredder
 - copier/ fax machine
 - employee entrance
 - lunch room
 - supplies
 - Emergency Evacuation Procedures
 - Emergency exits
 - Fire extinguishers
 - Stairwells
 - **Security: Extension** _____
-

Employee's Name (please print)

Employee #

Employee' s Signature

Date

Supervisor's Signature

Date

INTEROFFICE MEMO

DATE:

PHONE

FROM:

Title, Department

TO:

Employee
Title



SUBJECT: Record of Discussion

State the DATE and PURPOSE of the meeting. Be clear and concise. Example: "On (date), I met with you to discuss a patient complaint, your excessive tardiness, etc. Also present in the meeting was (name), (title)."

Indicate if the employee was previously DISCIPLINED for similar misconduct: Example: "You were orally counseled for (misconduct) on (date)."

Indicate the employee's RESPONSE: State the facts. Be as objective as possible, giving specific details and using quotes when practical.

Explain the NEGATIVE IMPACT of behavior on organization. Example: "Your carelessness resulted in..." OR "Your neglect of duties compromises patient care."

Cite the VIOLATION OF RULE AND/OR POLICY. Example: "Your actions are in violation of ARMC Policy No. 208.01, "Employee Identification Badge".

List EXPECTATIONS: Example: "You are expected to arrive and be ready to work promptly at the beginning of your work shift." OR "You are expected to maintain professionalism in the workplace".

A copy of this memorandum will be placed in your personnel file

I acknowledge receipt of this Record of Discussion and understand that further infractions may result in disciplinary action, up to and including termination:

Employee

Date

INTEROFFICE MEMO

DATE:

PHONE

FROM: Name
Title, Department

TO: **Employee**
Title, Department



SUBJECT: MEMO OF CONCERN

Explain the conduct or behavior that is causing concern. Indicate dates and times if applicable.

Explain the **NEGATIVE IMPACT** of behavior on organization. Example: "Your carelessness resulted in..." OR "Your neglect of duties compromises patient care."

Cite the **VIOLATION OF RULE AND/OR POLICY**. Example: "Your actions are in violation of ARMC Policy No. 208.01, "Employee Identification Badge". Indicate if the employee was previously **DISCIPLINED** for similar misconduct: Example: "You were orally counseled for (misconduct) on (date)." List **EXPECTATIONS**: Example: "You are expected to arrive and be ready to work promptly at the beginning of your work shift." OR "You are expected to maintain professionalism in the workplace".

A copy of this memorandum will be placed in your personnel file

I acknowledge receipt of this Memo and understand that further infractions may result in disciplinary action, up to and including termination:

Employee

Date

INTEROFFICE MEMO

DATE:

PHONE

FROM: Name
Title, Department

TO: **Employee**
Title, Department



SUBJECT: MEMO OF INSTRUCTION

Explain the conduct or behavior that is causing concern, or how the employee failed to adequately carry out a directive, assignment or instruction. Indicate dates and time directive or instruction was given, if applicable.

Explain the **NEGATIVE IMPACT** of behavior on organization. Example: “Your failure to follow my instruction resulted in...” Or “Your conduct resulted in...”

Indicate if you have previously discussed this conduct with the employee for similar conduct.

Provide a clear directive to the employee “You are instructed to do the following:”

- Use a list if appropriate

Cite the consequences of failing to follow the instruction “Failure to follow these directives will result in disciplinary action, up to and including termination.”

A copy of this memorandum will be placed in your personnel file

I acknowledge receipt of this Memo and understand that further infractions may result in disciplinary action, up to and including termination:

Employee

Date

INTEROFFICE MEMO

DATE:

PHONE

FROM:

TO:



SUBJECT: LETTER OF REPRIMAND

You are hereby reprimanded for violation of the following subsections of Rule X, Section 2 of the County of San Bernardino Personnel Rules:

- a.
- b.
- c.

Specifically, the reasons for this action are as follows:

State the specific reason for discipline (i.e. "you were absent without approved leave on ..."), and then follow-up with the details. State the facts. Be as specific and objective as possible. Answer: Who, When, Why, Where, and What.

You were previously counseled and/or disciplined for similar misconduct on the following occasions: *(list any disciplinary actions taken, including any oral counseling, records of discussion, memos of concern, letters of reprimand, suspensions, etc.)*

You are expected to... *(i.e. "arrive and be ready to work at 6:00 a.m.")*

Any further violations may be cause for disciplinary action up to and including termination.

I acknowledge receipt of a copy of this Letter of Reprimand and understand that a copy will be placed in my personnel file:

Employee Signature

Date

cc: Departmental Supervisor
Human Resources Officer
Personnel File
Official Personnel File

Attachment #6

**NOTICE OF PROPOSED (TERMINATION, SUSPENSION, DEMOTION, REDUCTION IN
SALARY STEP, OR REDUCTION IN ACCRUED LEAVE)**

Name of Employee

Title of Position

County Department

Employee Number: _____

You are hereby notified that the (Name of County Department) Department proposes to
(terminate, suspend, demote, reduce in step, or reduce in accrued leave) you from the position
of _____ (without pay for twenty (20) work days (160 hours)), effective _____, for
violation of the following subsections of Rule X, Section 2, of the Personnel Rules of the County
of San Bernardino: (quote subsections, e.g.)

(a) Failure to meet reasonable work performance standards and requirements.

(c) Willful or negligent disobedience of any law, ordinance, County rule, departmental
regulation, or superior's lawful order.

(I) Neglect of duties.

PERTINENT BACKGROUND

1. You were hired as a _____ for the County of San Bernardino, _____
Department on _____.
2. You were promoted to the position of _____ for the _____
Department on _____.
3. You were assigned the duties of the _____ desk for the _____
Department on _____.
4. You acknowledged receipt and understanding the County policy on the
_____ on _____.

Attachment #6

Specifically, the reasons for this action are as follows:

1. (Provide a clear and concise violation and the consequence of the action).

This conduct is contrary to and in violation of San Bernardino County Personnel Rule X, Section 2 (a), (c), and (l).

Details Supporting #1:

(Describe reasons in detail giving such information as dates of incident(s), description of incident(s), counseling. If work performance is involved, indicate specific deficiencies supported by instances of such deficiencies, etc.)

2. (Provide a clear and concise violation and the consequence of the action of each separate charge).

This conduct is contrary to and in violation of San Bernardino County Personnel Rule X, Section 2 (a), (c), and (l).

Details Supporting #2

(Describe reasons in detail giving such information as dates of incident(s), description of incident(s), counseling. If work performance is involved, indicate specific deficiencies supported by instances of such deficiencies, etc.)

The following were also taken into consideration in determining the level of discipline:

(Describe any previous disciplinary actions taken, verbal counseling, work performance, re-alignment of duties, etc.)

Mr/s. _____, this action is being issued to impress upon you the seriousness of your actions. Your conduct is unacceptable and is in violation of Rule X, Section 2 (a), (c), and (l), of the Personnel Rules of the County of San Bernardino. Such action is just cause for discipline under said Rule.

Attachment #6

Attached are the materials upon which this proposed action is based. You may respond in writing and/or orally to your appointing authority, _____, Director, _____ Department, explaining or countervailing the causes and the reasons set forth herein. Said responses must be made within five (5) working days after services of this Notice upon you.

_____, Director	DATE
_____ Department	

Name of Employee, Title of Position	DATE
_____ Department	

THIS ORDER OF DISCIPLINARY ACTION WAS SERVED UPON _____ ON THE _____ DAY OF _____ 2006 BY _____

ATTACHMENTS

Attachment #7

**ORDER OF (TERMINATION, SUSPENSION, DEMOTION, REDUCTION IN STEP OR
REDUCTION IN ACCRUED LEAVE)**

Name of Employee

Title of Position

County Department

Employee Number: _____

You are hereby notified that you are (terminated, suspended, demoted, reduced in salary step, or reduced in accrued leave) from the position of _____, in the Department of _____ effective _____, for violation of the following subsections of Rule X, Section 2, of the Personnel Rules of the County of San Bernardino: (quote subsections, e.g.)

(a) Failure to meet reasonable work performance standards and requirements.

(c) Willful or negligent disobedience of any law, ordinance, County rule, departmental regulation, or superior's lawful order.

(l) Neglect of duties.

PERTINENT BACKGROUND

1. You were hired as a _____ for the County of San Bernardino, _____ Department on _____.
2. You were promoted to the position of _____ for the _____ Department on _____.
3. You were assigned the duties of the _____ desk for the _____ Department on _____.
4. You acknowledged receipt and understanding the County policy on the _____ on _____.

Specifically, the reasons for this action are as follows:

Attachment #7

1
2 **1. (Provide a clear and concise violation and the consequence of the action).**

3 This conduct is contrary to and in violation of San Bernardino County Personnel Rule
4 X, Section 2 (a), (c), and (l).

5 Details Supporting #1:

6
7 (Describe reasons in detail giving such information as dates of incident(s), description of
8 incident(s), counseling. If work performance is involved, indicate specific deficiencies
9 supported by instances of such deficiencies, etc.)

10
11 **2. (Provide a clear and concise violation and the consequence of the action of**
12 **each separate charge).** This conduct is contrary to and in violation of San
13 Bernardino County Personnel Rule X, Section 2 (a), (c), and (l).

14 Details Supporting #2

15
16 (Describe reasons in detail giving such information as dates of incident(s), description of
17 incident(s), counseling. If work performance is involved, indicate specific deficiencies
18 supported by instances of such deficiencies, etc.)

19 The following were also taken into consideration in determining the level of discipline:

20
21 (Describe any previous disciplinary actions taken, verbal counseling, work performance, re-
22 alignment of duties, etc.)

23 You were served the notice of proposed disciplinary action on _____, with materials
24 upon which that proposed action was based attached thereto. Your rights to respond to your
25 appointing authority explaining or countervailing said charges and causes were explained in that
26 notice. You responded/did not respond (orally and/or in writing) to said notice. (If response
27 resulted in modification of the action, briefly summarize the reason.)
28

Attachment #7

You are further advised that you may appeal this order to the San Bernardino County Civil Service Commission, 175 West Fifth Street, San Bernardino, California 92415, for a hearing thereon by filing a written appeal within five (5) working days of receipt of this order, and you must answer in writing admitting or denying the charges herein within five (5) working days of the filing of the notice of appeal or said charges will be deemed admitted.

You have the right to appear at the hearing, to be represented, and produce evidence. Any further information regarding your civil service rights may be obtained at the Office of the Civil Service Commission, 175 West Fifth Street, Second Floor, San Bernardino, California.

_____, **Director**
_____ Department

DATE

Name of Employee, Title of Position
_____ Department

DATE

THIS ORDER OF DISCIPLINARY ACTION WAS SERVED UPON _____ ON THE
_____ DAY OF _____ 2006 BY _____

Attachment #8

**ORDER OF SHORT TERM SUSPENSION
(NO NOTICE GIVEN)**

Name of Employee _____

Title of Position _____

County Department _____

Employee Number: _____

YOU WERE SUSPENDED without pay for a period _____ from the position of _____, in the Department of _____ effective _____, for violation of the following subsections of Rule X, Section 2, of the Personnel Rules of the County of San Bernardino: (quote subsections, e.g.)

(a) Failure to meet reasonable work performance standards and requirements.

(c) Willful or negligent disobedience of any law, ordinance, County rule, departmental regulation, or superior's lawful order.

(l) Neglect of duties.

PERTINENT BACKGROUND

1. You were hired as a _____ for the County of San Bernardino, _____ Department on _____.

2. You were promoted to the position of _____ for the _____ Department on _____.

3. You were assigned the duties of the _____ desk for the _____ Department on _____.

4. You acknowledged receipt and understanding the County policy on the _____ on _____.

Specifically, the reasons for this action are as follows:

Attachment #8

1 **1. (Provide a clear and concise violation and the consequence of the action).**

2 This conduct is contrary to and in violation of San Bernardino County Personnel Rule
3 X, Section 2 (a), (c), and (l).

4 Details Supporting #1:

5
6 (Describe reasons in detail giving such information as dates of incident(s), description of
7 incident(s), counseling. If work performance is involved, indicate specific deficiencies
8 supported by instances of such deficiencies, etc.)

9
10 **2. (Provide a clear and concise violation and the consequence of the action of**
11 **each separate charge).** This conduct is contrary to and in violation of San
12 Bernardino County Personnel Rule X, Section 2 (a), (c), and (l).

13 Details Supporting #2

14
15 (Describe reasons in detail giving such information as dates of incident(s), description of
16 incident(s), counseling. If work performance is involved, indicate specific deficiencies
17 supported by instances of such deficiencies, etc.)

18 The following were also taken into consideration in determining the level of discipline:

19
20 (Describe any previous disciplinary actions taken, verbal counseling, work performance, re-
21 alignment of duties, etc.)

22
23 You were served the notice of proposed disciplinary action on _____, with materials
24 upon which that proposed action was based attached thereto. Your rights to respond to your
25 appointing authority explaining or countervailing said charges and causes were explained in that
26 notice. You responded/did not respond (orally and/or in writing) to said notice. (If response
27 resulted in modification of the action, briefly summarize the reason.)

28 You are further advised that you may appeal this order to the San Bernardino County Civil
 Service Commission, 175 West Fifth Street, San Bernardino, California 92415, for a hearing

Attachment #8

thereon by filing a written appeal within five (5) working days of receipt of this order, and you must answer in writing admitting or denying the charges herein within five (5) working days of the filing of the notice of appeal or said charges will be deemed admitted.

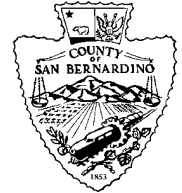
You have the right to appear at the hearing, to be represented, and produce evidence. Any further information regarding your civil service rights may be obtained at the Office of the Civil Service Commission, 175 West Fifth Street, Second Floor, San Bernardino, California.

_____	_____
_____, Director	DATE
_____ Department	

_____	_____
Name of Employee, Title of Position	DATE
_____ Department	

THIS ORDER OF DISCIPLINARY ACTION WAS SERVED UPON _____ ON THE
_____ DAY OF _____ 2006 BY _____

INTEROFFICE MEMO



County of San Bernardino

DATE

PHONE

FROM JANE SMITH, Deputy Director
Department of

TO JOHN DOE,
Department of

SUBJECT ADMINISTRATIVE LEAVE

You are placed on paid administrative leave effective, XXXday, ____, 2006. You are to remain on administrative leave, pending the outcome of an administrative investigation. The following conditions must be adhered to while on said leave:

1. You are to remain at your residence, which will be your designated place of work, to be available to the County between ____ a.m. and ____ p.m., ____ day through ____ day, except for a 1 hour lunch from 12:00 – 1:00. Should you have the need to leave your residence during this period, you must call and request vacation leave.
2. You are to report in each morning via telephone between 8:00 a.m. and 8:30 a.m. to your supervisor, _____ at (909) ____ - _____. If she is unavailable, contact me at (909) 387- _____. If you are ill or have a doctor/dental appointment, you must follow the established procedures for notification.
3. Any questions or contact with the Department of _____ must be made through myself at the phone number above or _____, Supervising _____ at (909) ____ - ____.
4. You are not to contact staff of the Department of _____ or any clients. Also, you are not to come to any facility of the Department of _____ while on administrative leave without the express prior approval of myself or Mr. _____.

If you have any questions, please contact me at the above telephone number.

cc: Official Personnel File (OPF)
Human Resources Officer



County of San Bernardino REQUEST FOR EXTENDED SICK AND SPECIAL LEAVE (RESSL)

Must print in Black or Blue ink ONLY

STD ☐ Check box if applying for STD

Employee ID	Rcd No.	Last Name, First Name
--------------------	----------------	------------------------------

To Be Completed By Employee (Supervisor may complete in employee's absence)

Home Address		City	State	Zip Code
Mailing Address (if different than Home)		City	State	Zip Code
Telephone Numbers:	Home ()	Work ()	Job Code Title	
Department			Department ID	Work Location
Type of Request <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision	Reason for Leave <input type="checkbox"/> Own serious health condition ¹ (non-work related) <input type="checkbox"/> Occupational injury/illness ¹ <input type="checkbox"/> Indicate due date if pregnant ¹ : _____ <input type="checkbox"/> Care for child/spouse/domestic partner/parent for a serious health condition ¹ <input type="checkbox"/> Birth, placement or adoption of a child ¹ - If child's other parent is a county employee, indicate name and employee ID _____ <input type="checkbox"/> Care for other family member for a serious health condition <input type="checkbox"/> Military leave, educational leave, or other leave not specified above			

¹ See reverse side regarding your FMLA rights for this leave.

To Be Completed By Supervisor

Leave Type	Date From	Date To	No. Hrs.	Check If Applicable
Sick Leave With/Without Pay				<input type="checkbox"/> Reduced Schedule <input type="checkbox"/> Intermittent Leave
Leave With/Without Pay				<input type="checkbox"/> Reduced Schedule <input type="checkbox"/> Intermittent Leave
Leave Without Right To Return To Position ³				
Military Leave (attach active duty orders)				
Occupational Injury/Illness (Pending Risk Management's approval and requires an Employer's Report of Occupational Injury or Illness)				<input type="checkbox"/> Reduced Schedule <input type="checkbox"/> Intermittent Leave
Other – Explain: _____				<input type="checkbox"/> Reduced Schedule <input type="checkbox"/> Intermittent Leave

Signature

Date

Employee ²		
Supervisor/Title		
Appointing Authority or Designee		
Human Resources Officer ³		

² If employee unable to sign, write SNA and indicate date copy sent to employee's mailing address

³ Required for Leave With/Without Right to Return, Medical Leave of Absence, educational leave

Office Use Only

DISTRIBUTION: Original-EBSD-Hospitality
 1st Copy - Department
 2nd Copy - Supervisor
 3rd Copy - Employee

Approved		Approved Pending Cert	
Reviewed By (Employee ID)	Date	Keyed By (Employee ID)	Date

PRELIMINARY FMLA DESIGNATION NOTIFICATION

This is to inform you that your extended and/or intermittent leave will be preliminarily designated as FMLA (Family Medical Leave Act) and/or CFRA (California Family Rights Act) Leave in accordance with federal and state laws. These laws are there to protect your job and employer paid benefits while you are out on a qualified leave of absence.

As indicated on this *Request for Extended Sick and Special Leave* form, you are requesting an extended leave for your own serious health condition, the serious health condition of your child, spouse, domestic partner, or parent, or for the birth or adoption of a child. Leave for any of these reasons qualifies as FMLA and/or CFRA Leave.

A "serious health condition" for a family member requires either:

- ◆ Hospitalization; or
- ◆ Any period of incapacity of more than three calendar days that involves continuing treatment by a health care provider; or
- ◆ Any health condition that if left untreated would result in a period of incapacity of at least three days (including chronic conditions); or
- ◆ For prenatal care.

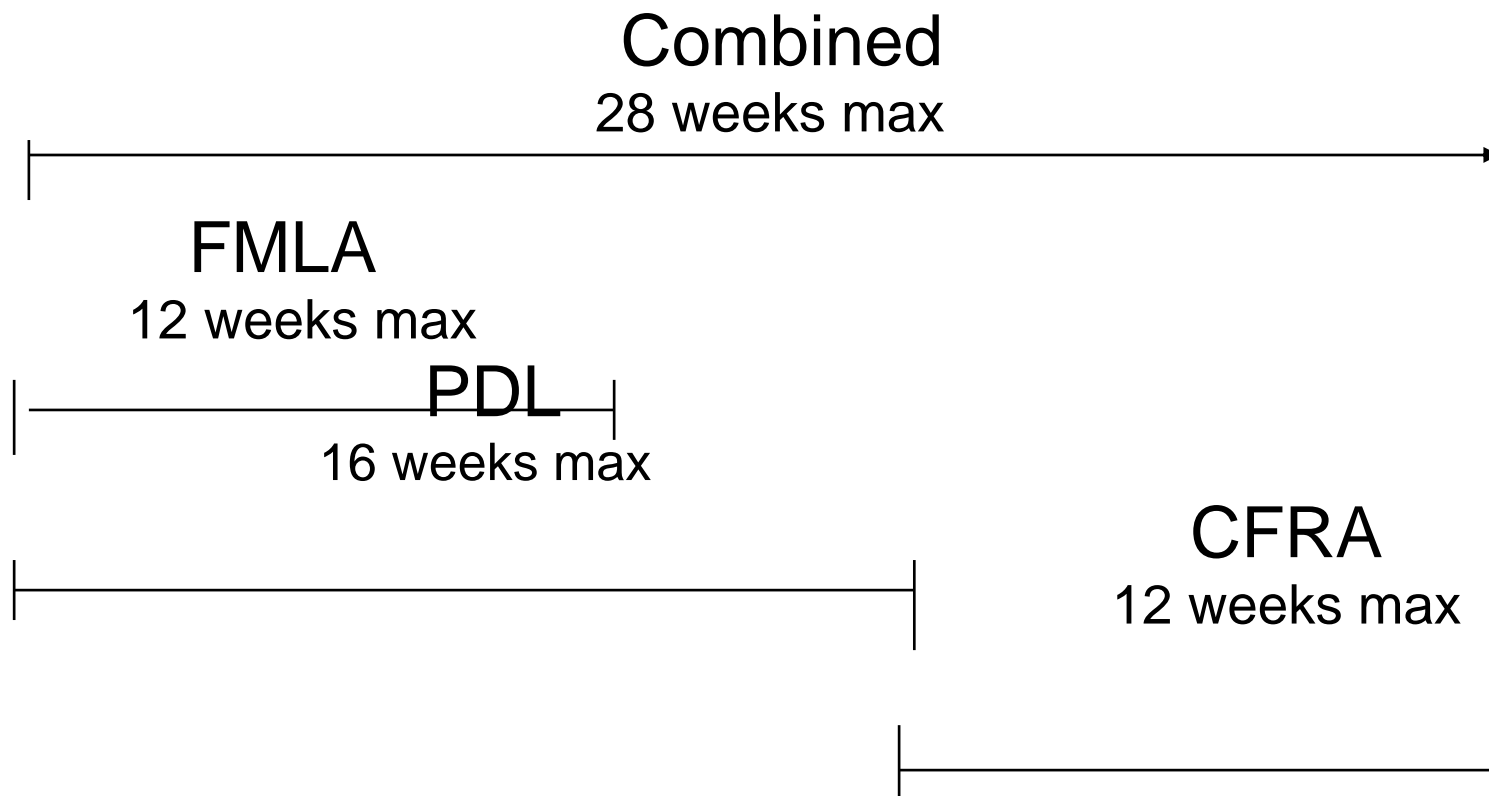
The definition of a "serious health condition" is the same for an employee with the addition that it must prevent the employee from performing the functions of his/her position.

If the reason for your leave meets the above criteria **and** you meet the eligibility requirements, your leave will be counted as FMLA and/or CFRA. ***This does not impact how or if you are paid during your leave. You are still required to complete the necessary paperwork to receive sick pay and/or disability, if eligible.*** A formal notification will be sent to you indicating the dates covered, what entitlement your leave counts against, your eligibility, and if there is any additional information required.

If you have not already done so, please have your health care provider complete the *Health Care Provider Certification* form and return it to your payroll clerk within **15 days**. If this information is not received within 15 days, your leave may be denied.

For more information, please refer to the *FMLA and Pregnancy Supplemental Brochures*. If you have any further questions, call your departmental payroll clerk.

Time Lines- Pregnancy



Time Lines-- Health

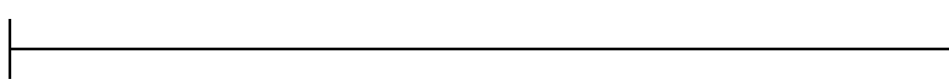
FMLA

12 weeks max



CFRA

12 weeks max



Attachment #12

ATTENDANCE ANALYSIS

Employee:

Dates:

[illegible]

Attachment #12

**INSTRUCTIONS FOR COMPLETING
ATTENDANCE ANALYSIS**

INCLUDE THE FOLLOWING IN THE ATTENDANCE ANALYSIS:

- Reason for absence (sick, child ill, family medical leave, personal reasons, family emergency, etc.) Indicate specific reason if known (asthma, flu, child has chicken pox, etc.). If unknown, indicate “reason not provided.”
- Tardiness and reason (car problems, traffic, woke up late, etc.)
- If an off-work order (OWO) was provided by the employee
- Which absences qualify for FMLA—DO NOT include absences due to FMLA in your calculation
- “No Show/ No Call” or any other unusual circumstances, such as if OWO requested but not provided or the employee called in sick after denying time off
- When employee called if relevant

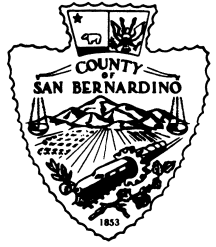
DO NOT INCLUDE THE FOLLOWING ABSENCES IN YOUR CALCULATION AS THEY ARE PROTECTED BY FMLA:

- Any absence in excess of 3 days
- Any absence due to an occupational injury
- Any absence due to prenatal care
- Any absence previously designated as FMLA (This will only apply if the employee has an approved intermittent leave on file)

OTHER CONSIDERATIONS

- Did you advise the employee of his/ her rights under FMLA? When did you give the employee the FMLA paperwork?
- Has the employee exhausted their FMLA time? (Contact Human Resources)
- Have you provided any reasonable accommodations, such as a change in work shift or approved a reduced work week?

INTEROFFICE MEMO



DATE

PHONE

FROM (SUPERVISOR), (TITLE)
(DEPARTMENT)

MAIL CODE

TO (EMPLOYEE)
(TITLE)

SUBJECT **NOTICE OF EXCESSIVE SICK LEAVE USAGE**

This notice is to advise you that you have used 50% or more of your accrued sick leave and are in danger of exceeding the standard for sick leave usage. See attached attendance analysis.

The Department considers excessive absenteeism due to illness or injury as being reached when non-protected sick leave usage is in excess of 75% of sick leave accruals in a given twelve (12) month period. Employee's who exceed the standard may be subject to any, or all, of the following actions:

1. Leave Restriction Plan.
2. Below Job Standards rating on Work Performance Evaluation.
3. Disciplinary action up to and including dismissal.

This notice is provided to you in order to allow you an opportunity to improve your attendance.

I acknowledge receipt of this Notice.

Employee Signature

Date

cc: Human Resources Officer
Dept Personnel File

INTEROFFICE MEMO



DATE August 28, 2003

PHONE: XXX-XXXX

FROM **SUPERVISOR**, Title
Department

TO **EMPLOYEE**, Title
Department

SUBJECT **LEAVE RESTRICTION PLAN**

This memo is to advise you that the <department name here> has concerns about your health and welfare. An analysis of your leave time has been compiled indicating that you have used ____% of all your accrued sick leave since _____. This is considered to be excessive by our standards.

Therefore, effective pay period ____, 20__, and continuing through _____, 20__, for six months, you will be placed on a Leave Restriction Plan. During the time the plan is in effect, you will be required to provide a doctor's certificate for each occurrence of illness or injury. This certificate shall include a brief statement of illness with a brief diagnosis and an estimated date you will be released to return to work. This will also be required for any instances you use sick leave to care for a member of your immediate family. Sick leave will be granted if you have a valid medical excuse. Vacation or holiday leave will not be approved to supplement sick leave. Failure to provide a doctor's certificate will result in disciplinary action being taken against you.

When calling to report illness or injury, the caller is to personally speak directly to me. If I am unavailable you are to contact _____ at _____. You are expected to follow the procedures as outlined in both the M.O.U. Sick Leave Article which states:

"In twenty-four (24) hour departments, the appointing authority or designee should be notified at least two (2) hours prior to the start of the employee's scheduled tour of duty of a sickness on the first day of absence and must be notified at least one (1) hour prior to the start of the employee's scheduled tour of duty on subsequent sick days. In other departments, the appointing authority or designee must be notified within one-half (1/2) hour after the start of the employee's scheduled tour of duty of a sickness on the first day of absence. It is the responsibility of the employee to keep the appointing authority informed as to continued absence beyond the first day for reasons due to sickness or occupational disability. Failure to make such notification may result in denial of sick leave with pay."

LEAVE RESTRICTION

Page 2 of 2

During the duration of the leave restriction, no vacation or holiday time will be allowed without prior approval. However, if there is an emergency, please contact me about it and your request will be considered. A bona fide emergency is specifically defined as a situation requiring the immediate response of you to address a set of circumstances.

You are hereby directed to become aware of and knowledgeable of the rules and regulations surrounding your employment. Failure to comply with the department expectations as outlined above may result in denial of leave and could be grounds for disciplinary action being taken against you, up to and including termination.

Should you have any questions, do not hesitate to contact me.

cc: HR Officer
Personnel File
Official Personnel File



Attachment #15
County of San Bernardino
WORK PERFORMANCE EVALUATION (WPE)

Select Appropriate WPE

Must print in Blue or Black ink

Employee ID	Last Name, First Name		CA Driver's License No.	Auto Insurance <input type="checkbox"/> Yes <input type="checkbox"/> No	Service Hours Select Service Hours	Due Date
Position No.	Job Code	Job Code Title	Department		Department ID	

Rating codes: E = Exceeds Job Standards M = Meets Job Standards B = Below Job Standards U = Unsatisfactory

In each box below, describe an important task, duty, and/or job-related problem area. Evaluate job performance on each task, duty or job-related problem area with a rating code and give a justification of rating. You are required to complete this WPE as it may impact the employee's step advance.

Customer Service		
JUSTIFICATION:	JUSTIFICATION:	JUSTIFICATION:
JUSTIFICATION:	JUSTIFICATION:	JUSTIFICATION:
JUSTIFICATION:	JUSTIFICATION:	OVERALL EVALUATION
		COMMENTS:

Action

Select Appropriate Action

Note: If extending probation provide pay period (pp) end date below

(Extension must be in 3 pp increments only)

Extend Probation to: _____
(pp end date)

I acknowledge receipt of a copy of the County's Non-Discrimination/Harassment Policy and understand that I must comply with its contents.

Employee Signature: _____

Date: 11/12/05

The employee's signature on this evaluation does not necessarily imply agreement. The employee or reviewing official may file additional comments and/or a statement of disagreement that will become part of this evaluation.

Employee Signature: _____

Date: 11/12/05

Supervisor Signature: _____

Date: 11/10/05

Reviewing Official Signature: _____

Date: 11/10/05

Work Performance Evaluation cannot be processed unless all signatures are present

INTEROFFICE MEMO

DATE:

PHONE

FROM:

TO:



SUBJECT: Work Performance Improvement Plan

This WPIP has been initiated due to the difficulties you are having in meeting the performance standards of your job (and an overall evaluation of Below Job Standards on your WPE dated _____). I hope our discussion (regarding your WPE) and this memorandum will give you a thorough understanding of your deficiencies and of the performance standards expected of you and assist you in making the improvements necessary to meet these job standards.

1. Areas where failed to meet job standards and job standards:

a. Performance issue #1

Standard & expectation

State department standard, your expectation of the employee

Below Standard Conduct

State specific examples of employee's conduct

b. #2

Standard & expectation

Below Standard Conduct

c. #3

Standard & expectation

Below Standard Conduct

2. How to improve your performance:

Summarize expectations and give examples of how employee can improve performance.

Attachment #16

3. Supervisory Assistance and guidelines

You and I will meet bi-weekly to review...Please check with me as frequently as you wish to discuss these items or any matters that need clarification.

After 30 days, we will meet to review discuss your progress towards meeting your job standards and what is needed for your continued improvement. At this time I will complete a Performance Progress Report.

At the end of the 60 day period from the start of this WPIP, we will meet to discuss your progress, at which time I will complete a Final Performance Progress report.

4. Further Action

I believe you can improve your work to meet or exceed the standards. However, if significant improvement is not made within the next 60 days, further action may be necessary. This could include reprimand, demotion, reduction in step, suspension or dismissal. Let's work together so further action will not be necessary.

A copy of this memorandum will be placed in your personnel file.

I HEREBY ACKNOWLEDGE RECEIPT OF THIS MEMO:

EMPLOYEE'S SIGNATURE

DATE SIGNED

CC: Human Resources Officer
Department Personnel File
Official Personnel File

INTEROFFICE MEMO

DATE:

PHONE

FROM:

TO:



SUBJECT: PERFORMANCE PROGRESS REPORT, (START DATE) TO PRESENT

This is a summary of the discussion we had yesterday. We talked about the progress you have made in your work performance since our original discussion of your work deficiencies on *(original date of discussion)*.

Summarize discussion. We discussed your performance in the following and you did...

You responded

State how employee is progressing. I am sure that with continued effort on your part you can achieve the standard of performance we both desire within the 60 day *(or time period)* as mentioned in the Work Performance Improvement Plan memo of indicate date issued.

A copy of this memorandum will be placed in your personnel file.

I HEREBY ACKNOWLEDGE RECEIPT OF THIS MEMO:

Employee Signature

Date Signed

FREQUENTLY ASKED QUESTIONS

TABLE OF CONTENTS

- I. ATTENDING TRAINING, SPECIAL ASSIGNMENTS.....pg. 3**
 - A. *When is travel time on an overnight trip considered work time that must be compensated?*
 - B. *Is travel time to and from a training site, on the same day, which falls outside an employee's normal scheduled hours of work, paid work time?*
 - C. *Is travel time for a "special one day assignment" in another city or jurisdiction paid work time?*
 - D. *Can employees use a county vehicle to attend training classes?*

- II. MATERNITY, BEREAVEMENT, SICK, FMLA/CFRA LEAVE & COMP TIME.....pg. 5**
 - A. *Are there provisions for employees to take leave to attend to a sick child or other family members?*
 - B. *If an employee runs out of sick time, can they utilize vacation time as sick leave?*
 - C. *What is FMLA and CFRA? Who is eligible to take off FMLA and/or CFRA leave time?*
 - D. *What process is used when an employee wants to take FMLA/CFRA leave?*
 - E. *What is the definition of a "serious health condition" as it relates to FMLA/CFRA?*
 - F. *How is FMLA leave coded on an employee's time sheet?*
 - G. *If an employee and spouse are both county employees, can they take off the same amount of time under FMLA and CFRA?*
 - H. *If an employee is off work due to an FMLA issue, can this be mentioned in their evaluation?*
 - I. *How does a supervisor handle notification from an employee that she is pregnant?*
 - J. *How much time can an employee take off for maternity leave?*
 - K. *How much time is a new father allowed to take off?*
 - L. *Can a supervisor require an employee to accrue comp time in lieu of paid overtime?*
 - M. *What are the guidelines for an employee who wants to use comp time?*

III. PHYSICAL THERAPY, MODIFIED DUTY PROGRAM.....pg. 11

- A. *Can physical therapy time for an occupational injury be claimed as time worked if physical therapy is on the employee's day off?*
- B. *Can an employee with an injury, occupational or not, refuse to participate in the modified duty program?*

IV. EVALUATIONS, EXTENDING PROBATION, WORK IMPROVEMENT PROGRAM...pg. 12

- A. *What is the process to extend an employee's probation? Are there time limits?*
- B. *How do you terminate an employee's probation?*
- C. *How do you process an evaluation when the employee is off on long term leave or disability?*
- D. *What should you do if an employee is due a merit increase and they are being rated unsatisfactory or below standards on a performance appraisal report?*

V. SEPARATION FROM EMPLOYMENT, SEPARATION REPORTS, EMPLOYMENT VERIFICATIONS.....pg. 14

- A. *What documents are necessary when an employee notifies their supervisor that they intend to separate their employment from the County?*
- B. *When completing the County Separation Report, what rating should you give the employee?*
- C. *When a supervisor or station receives a telephone call about the performance of a current or ex-employee, what information can be provided?*

VI. MISCELLANEOUS QUESTIONS.....pg. 14

- A. *Does the department have to pay appellants for attendance at Civil Service Hearings?*
- B. *Are employees entitled to pay for time spent on matters when the employee is a party to an action against the county?*

I. ATTENDING TRAINING, SPECIAL ASSIGNMENTS

A. *When is travel time on an overnight trip considered work time that must be compensated?*

When an employee takes an overnight trip, travel time by that employee is considered to be paid work time only if the travel time occurs during the employee's normal work hours unless the employee is *required* to drive an automobile. This is true even if the travel time occurs during the employee's regular hours of work on the employee's day off.

Example: If an employee regularly works Monday through Friday from 8:00 a.m. to 5:00 p.m., the travel time spent by an employee during these hours on Saturday or Sunday is paid work time. However, travel time before 8:00 a.m. and after 5:00 p.m. on any day, including Saturday or Sunday is not counted as hours worked and the employee is not owed compensation for the travel time outside his regular work hours except as provided below.

29 CFR 785.39

Travel time is considered hours worked on an overnight trip, even if the travel time occurs *outside* the employee's regular work hours, if the employee is ***required to drive*** an automobile, train, boat, bus or airplane. An employee is considered to be performing work when "driving." An employee that is not driving (i.e. is a passenger) is not considered to be working. As such, time spent traveling, as a *passenger* in a plane, train, boat, bus or automobile is not paid work time, unless it occurs during the employee's regular work hours.

29 CFR 785.41

Example: An employee drives his personal vehicle to a seminar or training that involves an overnight stay. He is compensated for his travel time. If the employee is a *passenger* in a vehicle or other transportation, he is paid only if the travel time intersects with his normal working hours.

B. *Is travel time to and from a training site, on the same day, which falls outside an employee's normal scheduled hours of work, paid work time?*

Employers are not required to pay an employee for traveling to the place where their principal work activities will be performed. Therefore, travel from the employee's home to their work site and the return trip home on the same day at the conclusion of the day, regardless of distance, is not paid work time. This is ordinary home to work travel to their work site for the day.

29 CFR 785.35

Training

Mandatory off-site training is included in an employee's principal work activity. Travel time to this training will not be paid work time. Mandatory off-site training is any training approved by the department.

Imada v. City of Hercules 138F.3d 1294 (1998)

Example: An employee normally assigned to work in Barstow drives from his home in Barstow to training in San Bernardino for two (2) months. Her travel time will not be compensated.

Temporary Work Assignment

Travel time from home to work is not paid work time when an employee travels to a temporarily assigned work location that is different from his usual work location.

29 CFR 785.34/35

Example: An employee on modified duty who is normally assigned to work in Victorville is assigned to work at ARMC in San Bernardino to accommodate his restrictions. His increased travel time is not paid work time.

C. *Is travel time for a “special one day assignment” in another city or jurisdiction paid work time?*

Employees who regularly work at a fixed location that are given a “special one day assignment” in another city or jurisdiction (that is far from the employee’s ordinary work site) may be entitled to pay for their travel time that occurs outside their regular work hours. Pay for travel time is appropriate where the special assignment is performed for the employer’s benefit and at the employer’s special request to meet the needs of the particular and unusual assignment. Mandatory training or other assignments that are a normal, contemplated and mandated incident of the employee’s employment are **not** entitled to pay for travel time.

29 CFR 785.37

Example #1:

An employee must fly to Sacramento to attend a meeting. The employee drives to the Ontario airport, takes a flight to Sacramento, attends the meeting, flies back to the Ontario Airport, and then must go to their regular work location before driving home. The travel time from the employee’s home to the airport is not paid time. This is ordinary home to work travel. The employee is paid for his time flying, and for all his time until he leaves the office. He is paid up until the time he starts his commute home. His commute home is also unpaid time.

Example #2:

An employee is a floater, assigned to work at another location one day per week. The employee’s travel time to the other location one day per week is not paid travel time. That time is ordinary home to work travel because the one day assignment to work at a different location is a part of that employee’s regular duty.

D. *Can employees use a county vehicle to travel to training classes?*

It is at the discretion of the employees department. If the department allows this practice, it should not impact the department’s operation. This may be done purely for convenience to the employee, and the employee is not entitled to compensation for the time spent in the vehicle unless the vehicle is required for the training or the employee is required to drive other employees to the training.

II. MATERNITY, BEREAVEMENT, SICK, FMLA/CFRA LEAVE & COMP TIME

A. Are there provisions for employees to take leave to attend to a sick child or other family members?

Clerical Employees

Refer to Leave Provision in appropriate MOU

B. If an employee runs out of sick time, can they utilize vacation time as sick leave?

General Employees

If an employee has exhausted sick leave, vacation leave may be used upon special request of the employee and with the approval of the appointing authority. If the medical condition falls under FMLA, (personal or family medical leave) utilization of accrued vacation time must be granted.

Consolidated MOU, Leave Provisions, Section 3(a)

Safety Employees

Annual leave is a right, earned as a condition of employment, to a leave of absence with pay for the recreation and well being of the employee. Under unusual circumstances, annual leave may be used for sick leave purposes upon a special request of the employee and with the approval of the appointing authority. If the medical condition falls under FMLA (personal or family medical leave) utilization of accrued vacation time must be granted.

Safety Unit MOU, Article XVI, Section 2, Annual Leave (a)

C. What is FMLA and CFRA? What is Pregnancy Disability Leave? Who is eligible to take off FMLA and/or CFRA leave time?

General and Safety Employees

The Family Medical Leave Act of 1993 (FMLA) provides job protection to an eligible employee and allows up to 12 weeks (480 hours) of unpaid leave for certain family or medical reasons every 12 months on a rolling calendar basis. A qualified employee is one who has worked at least 12 months and 1250 in that time. The California Family Rights Act (CFRA) of 1993 is a state act that provides leave provisions similar to FMLA. Pregnancy Disability Leave (PDL) is a separate act in California and does not run concurrently with CFRA, nor does it require that the employee complete 12 months of service or 1250 hours of service to be covered by PDL. Other than for pregnancy, FMLA and CFRA time run concurrently. To be eligible for FMLA and CFRA the employee must have been employed by the County for at least 12 months and worked a minimum of 1250 hours within the past 12 months. An employee who wishes to take FMLA/CFRA time off must notify their supervisor of the need for leave at least 30 days before the leave begins, if possible. An employee who takes time off for reasons that fall under FMLA/CFRA will be charged for said leave time. Federal and state laws require the County to code FMLA and CFRA leave for all eligible leaves of absence. Per the California Code of Regulations, if an employee requests *medical leave* as defined by CFRA, the employer may require the employee to use sick time. If time off is for *family leave*, the employer may require the employee to use accrued paid time off (Vacation,

Comp). A request for absence without pay (AWOP) for family leave may be denied if the employee still has leave balances.

County of San Bernardino, Human Resources
California Code of Regulations 7297.5(b)(2)

D. What process is used when an employee wants to take FMLA/CFRA leave?

General and Safety Employees

Once an employer has been notified that an employee wants to take time off as defined under FMLA/CFRA a determination must be made regarding how the leave time will be charged. Medical Leave: Is for the employees *own* serious health condition or the health condition of the employees spouse, registered domestic partner, child or parent. Family Leave: Is for the birth of a child or the placement of an adoptive or foster child into the home. Leave must be taken within twelve (12) months of the birth or placement of the child. Whether the time off is defined as medical leave or family leave, a Request for Extended Sick and Special Leave (RESSL) document must be completed and signed by the employee as soon as practicable. If the employee does not return the RESSL, it should be submitted without signature to allow Human Resources to preliminarily designate the leave as FMLA/CFRA. When the employee is taking time off for any reason other than their own serious health condition, a *Health Care Provider Certification for Family Leave* form or a *Health Care Provider Certification for Medical Leave* form must be completed by the employee and signed by a health care provider. Again, the RESSL should be submitted in advance of the receipt of the form to allow Human Resources to make a preliminary designation of covered leave.

E. What is the definition of a “serious health condition” as it relates to FMLA/CFRA?

General and Safety Employees

As defined under the Medical Leave Act, a serious health condition is:

1. A physical or mental condition involving either inpatient care in a medical facility or continuing treatment by a health care provider.
2. Any period of incapacity due to pregnancy or for prenatal care.
3. Any period of incapacity due to a chronic serious health condition.
4. Any period of incapacity due to long-term conditions for which treatment may not be effective.
5. Absence for treatment for restorative injury.
6. Absence for treatment to prevent further incapacity.
7. Incapacity for more than three (3) calendar days and subsequent treatment or incapacity, provided that it also involves either:
 - a) two (2) or more treatments by, under the supervision, or on referral by a health care provider; or
 - b) one (1) treatment by a health care provider resulting in a regimen of continuing treatment under the health care provider's supervision.

In all instances when an employee is taking medical leave as defined by FMLA/CFRA, sick time leave shall be used. The employer can compel use of sick leave. If the employee exhausts sick leave, the use of other accrued leave time shall be granted.

FMLA/CFRA/County Human Resources

F. How is FMLA leave coded on an employee's time sheet?

General Employees

If and when an employee takes leave time as defined in the FMLA they may be required to use their vacation or sick leave balances. An employee may elect to use paid sick leave for a family member's illness according to the sick leave policy. However, the employer cannot require the employee to use sick time to attend to a family member, but can require the use of vacation time for that purpose. The employer can only require the employee to use their sick time for their own personal illness. If an employee takes time off for his or her own serious health condition they may utilize sick time for the duration of the illness or period of absence as defined. If sick time has been exhausted, vacation leave may be used for sick leave purposes. The Department may require the use of vacation and other leave balances for CFRA qualifying leave in place of unpaid leave. The RESSL form should indicate the dates of absence and the number of hours that were utilized during all medical leave. When an employee takes times off to care for a parent, child, spouse, registered domestic partner or the child of a domestic partner they may use a maximum of ½ of their annual accrual of earned sick leave per calendar year. There is no limit to the amount of sick leave a clerical unit employee may use for the care of a family member. Vacation leave may be utilized to accommodate time off for family leave purposes. In every instance where an employee takes leave to provide care for a family member, a signed *Health Care Provider Certification* from must be completed by a recognized health care provider and the original document shall be submitted to Human Resources.

County Human Resources

Consolidated MOU, Leave Provisions, Section 1

Code of Federal Regulations 825.207

California Code of Regulations 7297.5

Safety Employees

When an employee takes leave time as defined in the FMLA they may be required to use their vacation or sick leave balances. An employee may elect to use paid sick leave for a family member's illness according to the sick leave policy. However, the employer cannot require the employee to use sick time to attend to a family member, but can require the use of vacation time for that purpose. The employer can only require the employee to use their sick time for their own personal illness. If an employee takes time off for his or her own serious health condition they may utilize sick time for the duration of the illness or period of absence as defined. If sick time has been exhausted, vacation leave may be used for sick leave. The RESSL form should indicate the dates of absence and the number of hours that were utilized during all medical leave.

Attendance upon an ill member of the employee's immediate family is an authorized absence as defined under sick leave. Attendance upon the parent(s) of an employee may not exceed a total of eighty- (80) hours per calendar year. All family leave time taken shall be documented on the RESSL form accordingly. In each instance a *Health Care Provider Certification* form must be submitted with the signature of a health care provider.

**County Human Resources
Safety MOU Unit, Article XVI, Leave Provisions, Section 1(a)
Safety Management MOU, Leave Provisions, Section 1(a)**

G. If an employee and spouse are both county employees, can they take off the same amount of time under FMLA or CFRA?

General and Safety Employees

A husband and wife are limited to a combined total of 12 weeks of leave if the leave is taken:

- 1) for the birth of the employee's child or to care for the child after birth
- 2) for placement of a child with the employee for adoption or foster care, or to care for the child after placement.
- 3) to care for the employee's parent with a serious health condition.

In cases where the employees have each taken 6 weeks of family leave, they are each still entitled to the remaining 6 weeks for medical leave. If FMLA and/or CFRA are taken for any other qualified reason (for example, for your own serious health condition) each employee is entitled to 12 weeks. Further, the disability period for a mother after giving birth (6-8 weeks) will be considered time used for her own serious health condition and would not be subject to the combined 12 week limit.

**County of San Bernardino, Human Resources
29 Code of Federal Regulations 825.202**

H. If an employee is off work due to an FMLA issue, can this be mentioned in their evaluation?

General and Safety Employees

Time taken off under FMLA and/or CFRA can be mentioned in an employee's annual evaluation as an explanation of hours used. There can be no adverse consequence or adverse comment based upon the amount of time an employee was on FMLA and/or CFRA leave.

San Bernardino County Human Resources

I. How does a supervisor handle notification from an employee that she is pregnant?

General Employees

If a female employee makes verbal notification of her pregnancy, there is nothing that needs to be done. Absent a modified duty order from a physician, an employer SHALL NOT change her work assignment. Federal statutes have determined that an employer CANNOT make an employee disabled – even if work conditions may be hazardous to her health. (Example: Blood Borne Pathogen exposure, criminal or inmate contact) PREGNANCY ALONE IS NOT A DISABILITY! (unless determined to be so by a Health Care Provider). Once an employee brings in a modified duty notice, the employer shall make every effort to accommodate those restrictions listed. Any uniform requirement shall be specifically addressed on a case-by-case basis and according to any department specific policy.

State and Federal Statutes

Consolidated MOU, Leave Provisions, Section 1(a)(1)

Safety Employees

In addition to the guidelines listed above, per the Safety MOU:

“An employee who is medically able to perform the duties of her position but who prefers to be reassigned to available duties that are less strenuous and/or less dangerous, may request a reassignment under the conditions listed. If the appointing authority is unable to find other suitable duties, and the employee prefers a leave of absence to continuing to perform her regular duties, a leave of absence with right to return will be granted.”

Safety MOU Unit, Article XVI, Leave Provisions, Section 6(d)

J. How much time can an employee take off for maternity leave?

General and Safety Employees

A physician's verification of pregnancy must be submitted to an employee's supervisor in order for her to qualify for leave pursuant to FMLA and Pregnancy Disability Leave (PDL). PDL only covers the time that the employee is actually disabled as a result of the pregnancy or birth. The pregnant employee is entitled to a total of 28 weeks off. This will include all time taken off before, during and after childbirth. The employee may code their TLR's as sick (during their period of actual disability), vacation, or absent without pay (AWOP). The FMLA and Pregnancy Disability Leave run concurrently during the first 12 weeks of time off, the PDL allows for an extra 4 weeks off for a total of 16 weeks.

Consecutive to this time, CFRA allows for a maximum 12 weeks off for a total of 28 weeks. The employee is responsible to contact their payroll clerk to verify continuing benefits if they opt to take time off without pay. According to the MOU, benefit plans will be continued up to a maximum of 12 weeks if the employee is not showing at least 41-hours of paid leave per pay period. After 12 weeks AWOP, the employee may be required to pay the entire amount of their benefits for them to continue.

EXAMPLE:

If an employee is ordered off work due to pregnancy for four weeks prior to the birth of the child and then is given a continuing disability for the six weeks after the birth of the child, then the employee's FMLA time has two weeks remaining. Her job must be secure for two more weeks. Assuming that the employee is released from disability six weeks after the birth, the right to PDL ends and the employee is then entitled to the 12 weeks of leave allowed under the CFRA, for a total of 22 weeks. PDL only extends the leave entitlement by the time the employee is declared disabled as a result of the pregnancy and birth.

County of San Bernardino, Human Resources

Consolidation MOU, Benefit Plan, Section 1(a)

Time Lines – Pregnancy

FMLA

12 Weeks Maximum

PDL

16 Weeks Maximum

CFRA

12 Weeks Maximum

Combined = 28 Weeks Maximum
2/6/2004 24

K. How much time is a new father allowed to take off?

General Employees

A maximum of 40 hours earned sick leave may be used per occurrence for the birth of his child or the arrival of an adoptive child at the employee's home. The FMLA allows up to 12 weeks of leave for the birth, adoption or foster care placement of a child so the remaining 11 weeks will be charged to vacation or holiday leave time, if available. If the employee is medically necessary to care for the infant or spouse, then half of the employee's annual accrual of sick leave may be used. For clerical employees, there is no limit on the use of sick leave to care for sick family members.

Consolidated MOU, Leave Provisions, Section 1(e)(3) FMLA

Safety Employees

An employee is entitled to a total of 12 weeks of leave during any 12-month period for the birth, adoption or foster care placement of a child in accordance with the FMLA. There is no provision in the current MOU that allows a new father to use sick leave during any of these events unless there is a documented medical need for him to care for the newborn child or his spouse/partner. During the dates that the employee is acting as the medical care provider, sick time may be utilized. Absences taken to allow for "bonding" father to child will be charged against annual leave balances. An employee is entitled to a leave of absence, without pay, with right to return to the position, for the purpose of birth or adoption of a child and/or care of a child, spouse or parent as required by the FMLA.

Safety Unit MOU, Article XVI, Leave Provisions, Section 6(c) FMLA

L. Can a supervisor require an employee to accrue comp time in lieu of paid overtime?

General and Safety Employees

No. FLSA regulations and the Safety MOU prohibit the department from requiring an employee to accrue comp time rather than receive overtime pay.

M. What are the guidelines for an employee who wants to use comp time?

General and Safety Employees

The general rule is that any employee who has accrued comp time and requested use of this comp time will be allowed to use the time off within a "reasonable period" after making the request, if such request is not "unduly disruptive" to the department's operations. Mere inconvenience to the department is an insufficient basis to deny a request to use comp time. Likewise, the fact that the granting of a request for use of comp time will result in overtime is an insufficient reason to deny a request. In order to turn down a request for comp time, the Supervisor must, reasonably and in good faith, determine that the request for comp time would impose an unreasonable burden on the department's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services. The "reasonable

period” during which you must grant the request for comp time will depend on the facts and circumstances in each case considering such things as:

- The normal schedule of work;
- Anticipated workloads based on past experience;
- Emergency requirements for staff and services;
- The availability of qualified substitute staff.

Comp time does not have to be granted for the specific dates requested if the granting of that comp time would unduly disrupt operations.

Example #1:

On June 1st, an employee requests to use comp time on July 11th and 12th. If there is going to be adequate staffing in the department on July 11th and 12th, the request for comp time should be granted. If the employee's use of comp time on those dates would result in staffing levels that are lower than is reasonable and safe for the department, then alternative dates should be proposed to the employee. As long as the comp time can be used within a “reasonable time” from the date of the request, the requirements of the laws are met. Proposing alternative dates in November, for example, would not likely be considered reasonable.

Example #2:

On June 1st, an employee requests to use 2 days of comp time on unspecified dates. The request for use of comp time should be granted. The dates for the employee's leave can be any dates agreed upon by the employee and supervisor, as long as adequate staffing arrangements can be made for those dates

29 CFR 553.25

III. PHYSICAL THERAPY, MODIFIED DUTY PROGRAM

A. Can physical therapy time for an occupational injury be claimed as time worked if physical therapy is on the employee's day off?

General Employees

Employers must provide for the medical care, but they do not have to pay them for attending an appointment on a day off or during non-scheduled work hours. Typically, if an employee is on modified duty, they attend physical therapy during their workday. However, only 40 hours for an injury or physical therapy will be paid. Time taken in addition to that must be deducted from the employee's accumulated leave and supplements temporary disability payments up to the employee's full salary.

Consolidated MOU, Leave Provisions, Section 1(g)(1).

Safety Employees

Employers must provide for the medical care, but they do not have to pay employees for attending an appointment on a day off or during non-scheduled work hours. If an employee is on modified duty and attends physical therapy during the scheduled workday, the employee must use accrued sick leave.

Safety Unit MOU, Leave Provisions, Section 1(e) Safety Management and Supervisory Unit MOU, Leave Provisions, Section 1(e)

B. Can an employee with an injury, occupational or not, refuse to participate in the modified duty program?

General and Safety Employees

The modified duty program has proven to be very cost effective in reducing temporary disability payments, medical costs, legal costs, permanent disability awards, and worker's compensation premiums charged to the department. In addition, modified duty positions benefit the employee, as they are therapeutic and can speed the employee's recovery.

Occupational Injury

An employee with an occupational injury, who has a modified duty restriction and meets the criteria of the modified duty program, will be assigned to a modified duty position by the appointing authority or his designee. An employee with an occupational injury does not have the discretion to work in the modified duty program. They may be transferred to other Stations/Divisions if no meaningful work is available or the transfer meets the needs of the employee and department.

Non-Occupational Injury

An employee does have the discretion to participate in the modified duty program if he/she has incurred an injury that is not work related. In this situation, the employee has a work restriction and if a modified duty position has been offered to them by the appointing authority or his designee, the employee can refuse to participate. The employee will then have to utilize their own sick leave balance or other appropriate leave until they are returned to full duty status by their personal physician and the County doctor.

IV. EVALUATIONS, EXTENDING PROBATION, WORK IMPROVEMENT PROGRAM

A. What is the process to extend an employee's probation? Are there time limits?

General Employees

With proper notification, an employee's probationary period may be extended. An appointing authority may extend a probationary period in increments of three (3) payperiods with a maximum extension of fifteen (15) payperiods. It is imperative that the employee is notified PRIOR to the completion of the required number of service hours needed to complete their probationary period. If this is not accomplished, the employee attains regular status. Contact your HRO for assistance to ensure the process is completed properly.

County Personnel Rules, Rule VII, Appointments, Section 8

B. How do you terminate an employee's probation?

General and Safety Employees

Prior to completion of the probationary period, or extended probationary period, you shall provide the employee with written notification of termination. Even though the employee is considered an "at-will" employee, it is important to have a valid and documented reason for failure of probation. If the employee was promoted and has regular status in a prior position, they shall be returned to their former department and classification or a comparable classification. In either circumstance, the employee does not have a right to review or appeal the action.

C. How do you process an evaluation when the employee is off on long-term leave or disability?

General Employees

If the employee is on an extended paid leave, the evaluation shall be held in abeyance until such time they return from leave. The supervisor must notify their Payroll Specialist.

D. What should you do if an employee is due a merit increase and they are being rated unsatisfactory or below standards on a performance appraisal report?

General Employees

If you are going to rate an employee unsatisfactory or below standards and deny them a merit advance, you must follow one of two procedures:

#1: If the employee is going to be rated below standards or unsatisfactory, you must give the employee written notice of an inadequate work performance at least three (3) pay periods prior to giving them their performance evaluation, which coincides with the step advance eligibility date. If this procedure is followed, the step advance shall be denied. If the employee's step is denied, the employee will be re-evaluated after three (3) pay periods from receiving their below standards or unsatisfactory evaluation. If they receive a meets standards or exceeds, the employee shall be granted the merit advancement effective at the beginning of the pay period in which the meets standards or exceeds standards evaluation was administered.

Consolidated MOU, Merit Advances

Consolidated MOU, Denied Steps

#2: If you fail to give the employee notice three (3) pay periods in advance of their unsatisfactory or below standards evaluation, the merit increase shall be held in abeyance. The supervisor then must re-evaluate the employee after three (3) more pay periods from the date of the original evaluation. If the employee is still unsatisfactory or below standards at the second evaluation, the step increase will be denied. If the employee is not re-evaluated after the 4th pay period of the original evaluation, they will be automatically deemed as meeting job standards and be granted their merit advancement retroactive to the original eligibility date. If they are rated within the three (3) pay periods, as meeting job standards or exceeding job standards, the step shall be granted retroactive to the original step advance eligibility date.

Consolidated MOU, Merit Advances)

V. SEPARATION FROM EMPLOYMENT, SEPARATION REPORTS, EMPLOYMENT VERIFICATIONS

- A. What documents are necessary when an employee notifies their supervisor that they intend to separate their employment from the County?***

General and Safety Employees

When an employee notifies their supervisor of their intent to separate their employment with the County due to retirement or resignation, the supervisor or department representative should ask them for a letter of resignation or Separation Report, although an oral resignation is still considered official notification.

- B. When completing the County Separation Report, what rating should you give the employee?***

General

The rating should be based on the most recent and timely work performance evaluation and should accurately reflect the employees work performance.

- C. When a supervisor receives a telephone call about the performance of a current or ex-employee, what information can be provided?***

Supervisors and other employees are only to verify that employee works or did work at the County, the position they held, and date of employment. All other inquiries require a signed release form from the employee which should be reviewed by the department's Human Resources Officer. Some departments may have a more specific policy that should be adhered to.

VI. MISCELLANEOUS QUESTIONS

- A. Does the department have to pay appellants for attendance at Civil Service Hearings?***

General and Safety Employees

General and safety employees who are appellants in a civil service commission hearing should receive pay for attendance at hearings that occur during hours that such employees have been scheduled to work. However, employees who are appellants in civil service commission hearings should *not* receive overtime pay for attendance at hearings at times or on days that fall outside these employees' scheduled hours of work.

- B. Are employees entitled to pay for time spent on matters where the employee is a party to an action against the county?***

General and Safety Employees

General and safety employees who are plaintiffs in a lawsuit against the County or are parties to any other actions involving personal matters are *not* entitled to receive pay for time spent on court appearances.